

AN ACT

To amend sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.32, 109.57, 109.572, 117.101, 117.16, 117.44, 117.45, 121.04, 121.08, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.05, 125.06, 125.07, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.14, 164.27, 165.09, 166.16, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376, 507.09, 511.12, 515.01, 515.07, 521.05, 715.013, 718.01, 718.02, 718.05, 718.11, 718.14, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17, 901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1337.11, 1346.02, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02,

1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17,
1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 1751.05,
1751.11, 1751.12, 1751.13, 1751.16, 1751.60, 2101.16,
2117.06, 2117.25, 2133.01, 2151.352, 2151.3529,
2151.3530, 2151.83, 2151.84, 2152.19, 2301.02, 2301.03,
2301.58, 2305.234, 2329.07, 2329.66, 2335.39, 2505.13,
2715.041, 2715.045, 2716.13, 2743.02, 2743.191,
2743.51, 2743.60, 2743.65, 2915.01, 2915.02, 2915.08,
2915.081, 2915.082, 2915.09, 2915.091, 2915.092,
2915.093, 2915.095, 2915.10, 2915.101, 2915.13,
2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43,
2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952,
3125.12, 3301.0710, 3301.0711, 3301.0714, 3301.52,
3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68,
3301.80, 3307.01, 3307.35, 3309.341, 3311.05, 3311.24,
3311.26, 3313.843, 3313.975, 3313.976, 3313.977,
3313.978, 3313.979, 3313.981, 3314.02, 3314.03,
3314.041, 3314.07, 3314.08, 3314.17, 3316.031, 3316.08,
3317.012, 3317.013, 3317.014, 3317.02, 3317.022,
3317.023, 3317.024, 3317.029, 3317.0217, 3317.03,
3317.032, 3317.05, 3317.064, 3317.07, 3317.09, 3317.10,
3317.16, 3318.01, 3318.03, 3318.042, 3318.05, 3318.06,
3318.08, 3318.30, 3318.31, 3318.37, 3318.41, 3319.01,
3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.33,
3319.36, 3319.55, 3323.16, 3327.01, 3327.011, 3329.06,
3329.08, 3332.04, 3333.12, 3353.11, 3361.01, 3375.41,
3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30,
3503.10, 3505.01, 3505.061, 3505.08, 3505.10, 3517.092,
3701.021, 3701.022, 3701.024, 3701.141, 3701.145,
3701.741, 3701.83, 3701.881, 3701.99, 3702.31,
3702.529, 3702.53, 3702.532, 3702.54, 3702.544,
3702.55, 3702.60, 3702.61, 3702.68, 3702.74, 3705.01,

3705.23, 3705.24, 3709.09, 3710.05, 3710.07, 3711.021,
3717.42, 3721.02, 3721.121, 3722.151, 3733.43, 3733.45,
3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18,
3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.27,
3735.66, 3735.67, 3735.671, 3737.81, 3745.04, 3745.11,
3745.14, 3745.40, 3746.13, 3748.07, 3748.13, 3769.087,
3770.07, 3770.10, 3770.12, 3770.99, 3773.33, 3773.43,
3901.491, 3901.501, 3901.72, 4104.01, 4104.02, 4104.04,
4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19,
4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17,
4112.15, 4115.10, 4117.02, 4117.14, 4123.27, 4123.41,
4141.04, 4141.09, 4141.23, 4301.03, 4301.19, 4301.30,
4301.361, 4301.364, 4301.43, 4303.02, 4303.021,
4303.03, 4303.04, 4303.05, 4303.06, 4303.07, 4303.08,
4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13,
4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17,
4303.171, 4303.18, 4303.181, 4303.182, 4303.183,
4303.184, 4303.19, 4303.20, 4303.201, 4303.202,
4303.203, 4303.204, 4303.21, 4303.22, 4303.23,
4303.231, 4501.06, 4503.06, 4503.101, 4503.103,
4505.06, 4506.14, 4506.15, 4506.16, 4506.20, 4506.24,
4508.08, 4509.60, 4511.33, 4511.62, 4511.63, 4519.55,
4561.18, 4561.21, 4707.071, 4707.072, 4707.10, 4709.12,
4717.07, 4717.09, 4719.01, 4723.01, 4723.06, 4723.07,
4723.08, 4723.082, 4723.17, 4723.271, 4723.34, 4723.35,
4723.431, 4723.63, 4729.01, 4729.41, 4731.27, 4731.65,
4731.71, 4734.15, 4736.12, 4743.05, 4747.05, 4747.06,
4747.07, 4747.10, 4751.06, 4751.07, 4759.08, 4771.22,
4779.08, 4779.17, 4779.18, 4903.24, 4905.79, 4905.91,
4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 4981.20,
5101.11, 5101.14, 5101.141, 5101.142, 5101.144,
5101.145, 5101.146, 5101.16, 5101.162, 5101.18,

5101.181, 5101.21, 5101.211, 5101.212, 5101.22,
5101.24, 5101.26, 5101.27, 5101.28, 5101.35, 5101.36,
5101.46, 5101.58, 5101.59, 5101.75, 5101.80, 5101.83,
5101.97, 5103.031, 5103.033, 5103.034, 5103.036,
5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314,
5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011,
5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30,
5107.37, 5107.40, 5107.60, 5108.01, 5108.03, 5108.06,
5108.07, 5108.09, 5108.10, 5111.016, 5111.0112,
5111.02, 5111.021, 5111.022, 5111.03, 5111.06,
5111.082, 5111.111, 5111.17, 5111.171, 5111.20,
5111.21, 5111.22, 5111.251, 5111.252, 5111.34, 5111.85,
5111.87, 5111.871, 5111.872, 5111.873, 5111.92,
5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99,
5115.01, 5115.02, 5115.03, 5115.04, 5115.05, 5115.07,
5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 5119.61,
5119.611, 5123.01, 5123.051, 5123.19, 5123.60,
5123.801, 5126.01, 5126.042, 5126.11, 5126.12,
5126.121, 5126.15, 5126.18, 5126.44, 5139.01, 5139.04,
5139.33, 5139.34, 5139.36, 5139.41, 5139.43, 5139.87,
5153.122, 5153.16, 5153.163, 5153.60, 5153.69, 5153.72,
5153.78, 5310.15, 5502.01, 5502.13, 5513.01, 5515.07,
5549.21, 5703.052, 5705.39, 5705.41, 5709.20, 5709.21,
5709.22, 5709.25, 5709.26, 5709.27, 5709.61, 5709.62,
5709.63, 5709.632, 5709.64, 5711.02, 5711.13, 5711.22,
5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082,
5713.30, 5715.27, 5715.39, 5717.03, 5719.07, 5725.19,
5727.111, 5727.30, 5727.32, 5727.33, 5727.56, 5727.84,
5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08,
5733.04, 5733.05, 5733.051, 5733.056, 5733.057,
5733.059, 5733.06, 5733.0611, 5733.09, 5733.121,
5733.18, 5733.22, 5733.45, 5733.49, 5733.98, 5735.05,

5735.14, 5735.142, 5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 5739.02, 5739.021, 5739.022, 5739.023, 5739.025, 5739.026, 5739.03, 5739.032, 5739.033, 5739.09, 5739.10, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.121, 5743.05, 5743.21, 5743.45, 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.12, 5747.31, 5747.80, 5901.021, 6101.09, 6109.21, 6111.06, 6115.09, 6117.02, 6119.10, 6301.05, and 6301.07; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3301.33 (3301.40), 3701.145 (3701.0210), 4104.46 (4104.48), 5101.211 (5101.214), 5101.212 (5101.215), 5108.06 (5108.04), 5108.07 (5108.05), 5111.08 (5111.071), 5111.16 (5111.08), 5111.252 (5123.199), 5115.02 (5115.04), 5115.04 (5115.02), 5115.07 (5115.06), 5115.13 (5115.07), and 5115.15 (5115.23); to enact new sections 125.831, 718.03, 3301.31, 3301.33, 3317.11, 3318.052, 4104.42, 4104.43, 4104.46, 5101.211, 5101.212, 5101.213, 5108.06, 5108.07, 5111.16, 5111.173, 5115.13, 5709.211, 5709.23, 5709.24, and 5739.034 and sections 9.24, 9.75, 107.12, 107.31, 107.32, 107.33, 121.36, 122.041, 122.90, 123.152, 124.183, 125.073, 125.832, 125.833, 131.41, 145.381, 153.691, 173.08, 307.676, 317.36, 319.63, 511.181, 718.021, 718.051, 718.121, 901.85, 927.701, 1346.04, 1346.05, 1346.06, 1346.07, 1346.08, 1346.09, 1346.10, 1501.25, 1711.131, 2113.041, 2117.061, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3307.353, 3309.345, 3311.059, 3314.083, 3318.024, 3333.121, 3333.16, 3333.38, 3379.11, 3501.011, 3506.20, 3701.029, 3701.61, 3702.63, 3770.073, 4104.47, 4115.21, 4303.205,

4511.198, 4707.24, 4723.063, 4723.81, 4723.82, 4723.83, 4723.84, 4723.85, 4723.86, 4723.87, 4723.88, 5101.12, 5101.1410, 5101.20, 5101.201, 5101.216, 5101.221, 5101.222, 5101.241, 5101.242, 5101.243, 5101.271, 5103.155, 5108.051, 5108.11, 5108.12, 5111.0113, 5111.025, 5111.083, 5111.151, 5111.161, 5111.172, 5111.174, 5111.175, 5111.211, 5111.88, 5111.911, 5111.912, 5111.913, 5111.95, 5111.96, 5111.97, 5115.12, 5115.14, 5115.22, 5123.196, 5123.198, 5123.1910, 5123.38, 5123.851, 5126.058, 5139.44, 5502.03, 5515.08, 5703.56, 5703.57, 5703.80, 5709.201, 5709.212, 5717.011, 5733.0511, 5733.55, 5733.56, 5733.57, 5735.053, 5741.25, 5743.051, and 5747.026; and to repeal sections 122.12, 125.831, 125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 319.311, 504.21, 718.03, 1333.96, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 2305.26, 3301.078, 3301.0719, 3301.0724, 3301.31, 3301.581, 3313.82, 3313.83, 3313.94, 3317.11, 3318.033, 3318.052, 3318.35, 3319.06, 3319.34, 3701.142, 3701.144, 3702.543, 3702.581, 4104.42, 4104.43, 4141.044, 4141.045, 5101.213, 5101.251, 5108.05, 5111.017, 5111.173, 5115.011, 5115.012, 5115.06, 5115.061, 5139.42, 5139.45, 5709.211, 5709.23, 5709.231, 5709.24, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5727.39, 5727.44, 5733.111, 5739.012, 5739.034, 5741.011, 5747.131, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37,

6111.38, and 6111.39 of the Revised Code; to amend Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly; to amend Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly; to amend Section 7 of Am. Sub. H.B. 512 of the 124th General Assembly; to amend Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly; to amend Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly; to amend Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly; to amend Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as subsequently amended; to amend Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly; to amend Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly; to amend Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as subsequently amended; to amend Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as subsequently amended; to amend Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to amend Section 27 of Sub. H.B. 670 of the 121st General Assembly, as subsequently amended; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; to amend Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly; to repeal Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly; to repeal Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly, as subsequently amended; to repeal Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended; to repeal Section 72 of Am. Sub. H.B. 850 of

the 122nd General Assembly; and to repeal Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; to repeal Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly; and to repeal Section 3 of Sub. H.B. 403 of the 123rd General Assembly; to levy taxes and provide for implementation of those levies, to make operating appropriations for the biennium beginning July 1, 2003, and ending June 30, 2005, and to provide authorization and conditions for the operation of state programs; to amend the version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 3332.04 of the Revised Code that is scheduled to take effect July 1, 2003; to amend the version of section 3734.44 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the versions of sections 307.93, 2152.19, 2743.191, 2743.51, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004; to amend the version of section 2301.03 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version

of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date; to amend the version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly; to terminate certain provisions of this act on December 31, 2013, by repealing section 4723.063 of the Revised Code on that date; and to terminate certain provisions of this act on October 1, 2006, by repealing section 5111.161 of the Revised Code on that date.

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

**This act has two parts, labeled Part I and Part II,
that are integral phases of this act.
Part I**

SECTION 1. That sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.32, 109.57, 109.572, 117.101, 117.16, 117.44, 117.45, 121.04, 121.08, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.05, 125.06, 125.07, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.14, 164.27, 165.09, 166.16, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376, 507.09, 511.12, 515.01, 515.07, 521.05, 715.013, 718.01, 718.02, 718.05, 718.11, 718.14, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17, 901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1337.11, 1346.02, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19,

1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 1751.05, 1751.11, 1751.12, 1751.13, 1751.16, 1751.60, 2101.16, 2117.06, 2117.25, 2133.01, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 2152.19, 2301.02, 2301.03, 2301.58, 2305.234, 2329.07, 2329.66, 2335.39, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02, 2743.191, 2743.51, 2743.60, 2743.65, 2915.01, 2915.02, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.093, 2915.095, 2915.10, 2915.101, 2915.13, 2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43, 2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952, 3125.12, 3301.0710, 3301.0711, 3301.0714, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68, 3301.80, 3307.01, 3307.35, 3309.341, 3311.05, 3311.24, 3311.26, 3313.843, 3313.975, 3313.976, 3313.977, 3313.978, 3313.979, 3313.981, 3314.02, 3314.03, 3314.041, 3314.07, 3314.08, 3314.17, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.09, 3317.10, 3317.16, 3318.01, 3318.03, 3318.042, 3318.05, 3318.06, 3318.08, 3318.30, 3318.31, 3318.37, 3318.41, 3319.01, 3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.33, 3319.36, 3319.55, 3323.16, 3327.01, 3327.011, 3329.06, 3329.08, 3332.04, 3333.12, 3353.11, 3361.01, 3375.41, 3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30, 3503.10, 3505.01, 3505.061, 3505.08, 3505.10, 3517.092, 3701.021, 3701.022, 3701.024, 3701.141, 3701.145, 3701.741, 3701.83, 3701.881, 3701.99, 3702.31, 3702.529, 3702.53, 3702.532, 3702.54, 3702.544, 3702.55, 3702.60, 3702.61, 3702.68, 3702.74, 3705.01, 3705.23, 3705.24, 3709.09, 3710.05, 3710.07, 3711.021, 3717.42, 3721.02, 3721.121, 3722.151, 3733.43, 3733.45, 3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.27, 3735.66, 3735.67, 3735.671, 3737.81, 3745.04, 3745.11, 3745.14, 3745.40, 3746.13, 3748.07, 3748.13, 3769.087, 3770.07, 3770.10, 3770.12, 3770.99, 3773.33, 3773.43, 3901.491, 3901.501, 3901.72, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17, 4112.15, 4115.10, 4117.02, 4117.14, 4123.27, 4123.41, 4141.04, 4141.09, 4141.23, 4301.03, 4301.19, 4301.30, 4301.361, 4301.364, 4301.43, 4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 4303.06, 4303.07, 4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13, 4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17, 4303.171, 4303.18, 4303.181, 4303.182, 4303.183, 4303.184, 4303.19, 4303.20, 4303.201, 4303.202,

4303.203, 4303.204, 4303.21, 4303.22, 4303.23, 4303.231, 4501.06, 4503.06, 4503.101, 4503.103, 4505.06, 4506.14, 4506.15, 4506.16, 4506.20, 4506.24, 4508.08, 4509.60, 4511.33, 4511.62, 4511.63, 4519.55, 4561.18, 4561.21, 4707.071, 4707.072, 4707.10, 4709.12, 4717.07, 4717.09, 4719.01, 4723.01, 4723.06, 4723.07, 4723.08, 4723.082, 4723.17, 4723.271, 4723.34, 4723.35, 4723.431, 4723.63, 4729.01, 4729.41, 4731.27, 4731.65, 4731.71, 4734.15, 4736.12, 4743.05, 4747.05, 4747.06, 4747.07, 4747.10, 4751.06, 4751.07, 4759.08, 4771.22, 4779.08, 4779.17, 4779.18, 4903.24, 4905.79, 4905.91, 4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 4981.20, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16, 5101.162, 5101.18, 5101.181, 5101.21, 5101.211, 5101.212, 5101.22, 5101.24, 5101.26, 5101.27, 5101.28, 5101.35, 5101.36, 5101.46, 5101.58, 5101.59, 5101.75, 5101.80, 5101.83, 5101.97, 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 5108.10, 5111.016, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.03, 5111.06, 5111.082, 5111.111, 5111.17, 5111.171, 5111.20, 5111.21, 5111.22, 5111.251, 5111.252, 5111.34, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.92, 5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 5123.19, 5123.60, 5123.801, 5126.01, 5126.042, 5126.11, 5126.12, 5126.121, 5126.15, 5126.18, 5126.44, 5139.01, 5139.04, 5139.33, 5139.34, 5139.36, 5139.41, 5139.43, 5139.87, 5153.122, 5153.16, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5310.15, 5502.01, 5502.13, 5513.01, 5515.07, 5549.21, 5703.052, 5705.39, 5705.41, 5709.20, 5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 5709.61, 5709.62, 5709.63, 5709.632, 5709.64, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5713.30, 5715.27, 5715.39, 5717.03, 5719.07, 5725.19, 5727.111, 5727.30, 5727.32, 5727.33, 5727.56, 5727.84, 5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08, 5733.04, 5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.121, 5733.18, 5733.22, 5733.45, 5733.49, 5733.98, 5735.05, 5735.14, 5735.142, 5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 5739.02, 5739.021, 5739.022, 5739.023, 5739.025, 5739.026, 5739.03, 5739.032, 5739.033, 5739.09, 5739.10, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.121, 5743.05, 5743.21, 5743.45, 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.12,

5747.31, 5747.80, 5901.021, 6101.09, 6109.21, 6111.06, 6115.09, 6117.02, 6119.10, 6301.05, and 6301.07 be amended; that sections 3301.33 (3301.40), 3701.145 (3701.0210), 4104.46 (4104.48), 5101.211 (5101.214), 5101.212 (5101.215), 5108.06 (5108.04), 5108.07 (5108.05), 5111.08 (5111.071), 5111.16 (5111.08), 5111.252 (5123.199), 5115.02 (5115.04), 5115.04 (5115.02), 5115.07 (5115.06), 5115.13 (5115.07), and 5115.15 (5115.23) be amended for the purpose of adopting new section numbers as indicated in parentheses; and that new sections 125.831, 718.03, 3301.31, 3301.33, 3317.11, 3318.052, 4104.42, 4104.43, 4104.46, 5101.211, 5101.212, 5101.213, 5108.06, 5108.07, 5111.16, 5111.173, 5115.13, 5709.211, 5709.23, 5709.24, and 5739.034 and sections 9.24, 9.75, 107.12, 107.31, 107.32, 107.33, 121.36, 122.041, 122.90, 123.152, 124.183, 125.073, 125.832, 125.833, 131.41, 145.381, 153.691, 173.08, 307.676, 317.36, 319.63, 511.181, 718.021, 718.051, 718.121, 901.85, 927.701, 1346.04, 1346.05, 1346.06, 1346.07, 1346.08, 1346.09, 1346.10, 1501.25, 1711.131, 2113.041, 2117.061, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3307.353, 3309.345, 3311.059, 3314.083, 3318.024, 3333.121, 3333.16, 3333.38, 3379.11, 3501.011, 3506.20, 3701.029, 3701.61, 3702.63, 3770.073, 4104.47, 4115.21, 4303.205, 4511.198, 4707.24, 4723.063, 4723.81, 4723.82, 4723.83, 4723.84, 4723.85, 4723.86, 4723.87, 4723.88, 5101.12, 5101.1410, 5101.20, 5101.201, 5101.216, 5101.221, 5101.222, 5101.241, 5101.242, 5101.243, 5101.271, 5103.155, 5108.051, 5108.11, 5108.12, 5111.0113, 5111.025, 5111.083, 5111.151, 5111.161, 5111.172, 5111.174, 5111.175, 5111.211, 5111.88, 5111.911, 5111.912, 5111.913, 5111.95, 5111.96, 5111.97, 5115.12, 5115.14, 5115.22, 5123.196, 5123.198, 5123.1910, 5123.38, 5123.851, 5126.058, 5139.44, 5502.03, 5515.08, 5703.56, 5703.57, 5703.80, 5709.201, 5709.212, 5717.011, 5733.0511, 5733.55, 5733.56, 5733.57, 5735.053, 5741.25, 5743.051, and 5747.026 of the Revised Code be enacted to read as follows:

Sec. 9.01. When any officer, office, court, commission, board, institution, department, agent, or employee of the state, ~~or~~ of a county, or of any other political subdivision; who is charged with the duty or authorized or required by law to record, preserve, keep, maintain, or file any record, document, plat, court file, paper, or instrument in writing, or to make or furnish copies of any ~~thereof~~ of them, deems it necessary or advisable, when recording ~~any such document, plat, court file, paper, or instrument in writing,~~ or when making a copy or reproduction of any ~~thereof~~ of them or of any such record, for the purpose of recording or copying, preserving, and protecting ~~the same~~ them, reducing space required for storage, or any similar purpose, to do so by means of any photostatic, photographic, miniature

photographic, film, microfilm, or microphotographic process, or perforated tape, magnetic tape, other magnetic means, electronic data processing, machine readable means, or graphic or video display, or any combination thereof of those processes, means, or displays, which correctly and accurately copies, records, or reproduces, or provides a medium of copying, recording, or reproducing, the original record, document, plat, court file, paper, or instrument in writing, such use of any ~~such photographic or electromagnetic~~ of those processes, means, or displays for any such purpose, is hereby authorized. Any such records, copies, or reproductions may be made in duplicate, and ~~such the~~ the duplicates shall be stored in different buildings. The film or paper used for ~~this a~~ a process shall comply with the minimum standards of quality approved for permanent photographic records by the national bureau of standards. All such records, copies, or reproductions shall carry a certificate of authenticity and completeness, on a form specified by the director of administrative services through the state records administrator program.

Any such officer, office, court, commission, board, institution, department, agent, or employee of the state, of a county, or of any other political subdivision may purchase or rent required equipment for any such photographic process and may enter into contracts with private concerns or other governmental agencies for the development of film and the making of reproductions ~~thereof of film~~ as a part of any such photographic process. When so recorded, or copied or reproduced to reduce space required for storage or filing of such records, ~~said such~~ such photographs, microphotographs, microfilms, perforated tape, magnetic tape, other magnetic means, electronic data processing, machine readable means, graphic or video display, or ~~any combination thereof of these processes, means, or displays,~~ or films, or prints made therefrom, when properly identified by the officer by whom or under whose supervision ~~the same they~~ they were made, or who has ~~the their~~ their custody ~~thereof~~, have the same effect at law as the original record or of a record made by any other legally authorized means, and may be offered in like manner and shall be received in evidence in any court where ~~such the~~ such the original record, or record made by other legally authorized means, could have been so introduced and received. Certified or authenticated copies or prints of such photographs, microphotographs, films, microfilms, perforated tape, magnetic tape, other magnetic means, electronic data processing, machine readable means, graphic or video display, or ~~any combination thereof of these processes, means, or displays,~~ shall be admitted in evidence equally with the original ~~photographs, microphotographs, films, or microfilms.~~

Such photographs, microphotographs, microfilms, or films shall be placed and kept in conveniently accessible, fireproof, and insulated files, cabinets, or containers, and provisions shall be made for preserving, safekeeping, using, examining, exhibiting, projecting, and enlarging ~~the same~~ them whenever requested, during office hours.

All persons utilizing the methods described in this section for keeping records and information shall keep and make readily available to the public the machines and equipment necessary to reproduce the records and information in a readable form.

Sec. 9.24. (A) No state agency and no political subdivision shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the auditor of state, if the finding for recovery is unresolved.

(B) For purposes of this section, a finding for recovery is unresolved unless one of the following criteria applies:

(1) The money identified in the finding for recovery is paid in full to the state agency or political subdivision to whom the money was owed;

(2) The debtor has entered into a repayment plan that is approved by the attorney general and the state agency or political subdivision to whom the money identified in the finding for recovery is owed. A repayment plan may include a provision permitting a state agency or political subdivision to withhold payment to a debtor for goods, services, or construction provided to or for the state agency or political subdivision pursuant to a contract that is entered into with the debtor after the date the finding for recovery was issued.

(3) The attorney general waives a repayment plan described in division (B)(2) of this section for good cause;

(4) The debtor and state agency or political subdivision to whom the money identified in the finding for recovery is owed have agreed to a payment plan established through an enforceable settlement agreement.

(5) The state agency or political subdivision desiring to enter into a contract with a debtor certifies, and the attorney general concurs, that all of the following are true:

(a) Essential services the state agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor;

(b) Awarding a contract to the debtor for the essential services described in division (B)(5)(a) is in the best interest of the state;

(c) Good faith efforts have been made to collect the money identified in the finding of recovery.

(6) The debtor has commenced an action to contest the finding for recovery and a final determination on the action has not yet been reached.

(C) The attorney general shall submit an initial report to the auditor of state, not later than December 1, 2003, indicating the status of collection for all findings for recovery issued by the auditor of state for calendar years 2001, 2002, and 2003. Beginning on January 1, 2004, the attorney general shall submit to the auditor of state, on the first day of every January, April, July, and October, a list of all findings for recovery that have been resolved in accordance with division (B) of this section during the calendar quarter preceding the submission of the list and a description of the means of resolution.

(D) The auditor of state shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The auditor of state shall have this database operational on or before January 1, 2004. The initial database shall contain the information required under this division for calendar years 2001, 2002, and 2003.

Beginning January 15, 2004, the auditor of state shall update the database by the fifteenth day of every January, April, July, and October to reflect resolved findings for recovery that are reported to the auditor of state by the attorney general on the first day of the same month pursuant to division (C) of this section.

(E) Before awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, a state agency or political subdivision shall verify that the person to whom the state agency or political subdivision plans to award the contract does not appear in the database described in division (D) of this section.

(F) As used in this section:

(1) "State agency" has the same meaning as in section 9.66 of the Revised Code.

(2) "Finding for recovery" means a determination issued by the auditor of state, contained in a report the auditor of state gives to the attorney general pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated.

(3) "Debtor" means a person against whom a finding for recovery has been issued.

Sec. 9.75. As used in this section, "dangerous drug" has the same

meaning as in section 4729.01 of the Revised Code.

If a state agency seeks to enter into or administer an agreement or cooperative arrangement to create or join a multiple-state prescription drug purchasing program to negotiate discounts for dangerous drugs and intends to contract with a person to administer the multiple-state prescription drug purchasing program, it shall do so through a competitive bidding process. A state agency seeking to enter into a contract with a person to administer the multiple-state prescription drug purchasing program may not enter into the contract with out controlling board approval.

Sec. 9.83. (A) The state and any political subdivision may procure a policy or policies of insurance insuring its officers and employees against liability for injury, death, or loss to person or property that arises out of the operation of an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft by the officers or employees while engaged in the course of their employment or official responsibilities for the state or the political subdivision. The state is authorized to expend funds to pay judgments that are rendered in any court against its officers or employees and that result from such operation, and is authorized to expend funds to compromise claims for liability against its officers or employees that result from such operation. No insurer shall deny coverage under such a policy, and the state shall not refuse to pay judgments or compromise claims, on the ground that an automobile, truck, motor vehicle with auxiliary equipment, self-propelling equipment or trailer, aircraft, or watercraft was not being used in the course of an officer's or employee's employment or official responsibilities for the state or a political subdivision unless the officer or employee who was operating an automobile, truck, motor vehicle with auxiliary equipment, or self-propelling equipment or trailer is convicted of a violation of section 124.71 of the Revised Code as a result of the same events.

(B) ~~Such funds~~ Funds shall be reserved as ~~are~~ necessary, in the exercise of sound and prudent actuarial judgment, to cover potential expense, fees, damage, loss, or other liability. The superintendent of insurance may recommend or, if the state requests of the superintendent, shall recommend, a specific amount for any period of time that, in the superintendent's opinion, represents such a judgment.

(C) Nothing in this section shall be construed to require the department of administrative services to purchase liability insurance for all state vehicles in a single policy of insurance or to cover all state vehicles under a single plan of self-insurance.

(D) Insurance procured by the state pursuant to this section shall be

procured as provided in section 125.03 of the Revised Code.

(E) For purposes of liability insurance procured under this section to cover the operation of a motor vehicle by a prisoner for whom the insurance is procured, "employee" includes a prisoner in the custody of the department of rehabilitation and correction who is enrolled in a work program that is established by the department pursuant to section 5145.16 of the Revised Code and in which the prisoner is required to operate a motor vehicle, as defined in section 4509.01 of the Revised Code, and who is engaged in the operation of a motor vehicle in the course of the work program.

(F) There is hereby created in the state treasury the vehicle liability fund. All contributions collected by the director of administrative services under division (I) of this section shall be deposited into the fund. The fund shall be used to provide insurance and self-insurance for the state under this section. All investment earnings of the fund shall be credited to it.

(G) The director of administrative services, through the office of risk management, shall operate the vehicle liability fund on an actuarially sound basis.

(H) Reserves shall be maintained in the vehicle liability fund in any amount that is necessary and adequate, in the exercise of sound and prudent actuarial judgment, to cover potential liability claims, expenses, fees, or damages. Money in the fund may be applied to the payment of liability claims that are filed against the state in the court of claims and determined in the manner provided in Chapter 2743. of the Revised Code. The director of administrative services may procure the services of a qualified actuarial firm for the purpose of recommending the specific amount of money that is required to maintain adequate reserves for a specified period of time.

(I) The director of administrative services shall collect from each state agency or any participating state body its contribution to the vehicle liability fund for the purpose of purchasing insurance or administering self-insurance programs for coverage authorized under this section. The amount of the contribution shall be determined by the director, with the approval of the director of budget and management. It shall be based upon actuarial assumptions and the relative risk and loss experience of each state agency or participating state body. The amount of the contribution also shall include a reasonable sum to cover administrative costs of the department of administrative services.

Sec. 101.34. (A) There is hereby created a joint legislative ethics committee to serve the general assembly. The committee shall be composed of twelve members, six each from the two major political parties, and each member shall serve on the committee during the member's term as a

member of that general assembly. Six members of the committee shall be members of the house of representatives appointed by the speaker of the house of representatives, not more than three from the same political party, and six members of the committee shall be members of the senate appointed by the president of the senate, not more than three from the same political party. A vacancy in the committee shall be filled for the unexpired term in the same manner as an original appointment. The members of the committee shall be appointed within fifteen days after the first day of the first regular session of each general assembly and the committee shall meet and proceed to recommend an ethics code not later than thirty days after the first day of the first regular session of each general assembly.

In the first regular session of each general assembly, the speaker of the house of representatives shall appoint the chairperson of the committee from among the house members of the committee and the president of the senate shall appoint the vice-chairperson of the committee from among the senate members of the committee. In the second regular session of each general assembly, the president of the senate shall appoint the chairperson of the committee from among the senate members of the committee and the speaker of the house of representatives shall appoint the vice-chairperson of the committee from among the house members of the committee. The chairperson, vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly.

The committee shall meet at the call of the chairperson or upon the written request of seven members of the committee.

(B) The joint legislative ethics committee:

(1) Shall recommend a code of ethics which is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;

(2) May receive and hear any complaint which alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;

(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of witnesses, and the production of books and papers;

(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;

(5) May recommend legislation to the general assembly relating to the

conduct and ethics of members and employees of and candidates for the general assembly;

(6) Shall employ an executive director for the committee and may employ such other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight members of the committee.

(7) May employ a special counsel to assist the committee in exercising its powers and duties. The appointment and removal of a special counsel shall require the approval of at least eight members of the committee.

(8) Shall act as an advisory body to the general assembly and to individual members, candidates, and employees on questions relating to ethics, possible conflicts of interest, and financial disclosure;

(9) Shall provide for the proper forms on which the statement required pursuant to section 102.02 of the Revised Code shall be filed and instructions as to the filing of the statement;

(10) Exercise the powers and duties prescribed under sections 101.70 to 101.79 and 121.60 to 121.69 of the Revised Code;

(11) Adopt in accordance with section 111.15 of the Revised Code any rules that are necessary to implement and clarify Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(C) There is hereby created in the state treasury the joint legislative ethics committee fund. ~~All money collected from registration fees and late filing fees prescribed under sections 101.72 and 121.62 of the Revised Code shall be deposited into the state treasury to the credit of the fund.~~ Money credited to the fund and any interest and earnings from the fund shall be used solely for the operation of the joint legislative ethics committee and the office of legislative inspector general and for the purchase of data storage and computerization facilities for the statements filed with the joint committee under sections 101.73, 101.74, 121.63, and 121.64 of the Revised Code.

(D) The chairperson of the joint committee shall issue a written report, not later than the thirty-first day of January of each year, to the speaker and minority leader of the house of representatives and to the president and minority leader of the senate that lists the number of committee meetings and investigations the committee conducted during the immediately preceding calendar year and the number of advisory opinions it issued

during the immediately preceding calendar year.

(E) Any investigative report that contains facts and findings regarding a complaint filed with the committee and that is prepared by the staff of the committee or a special counsel to the committee shall become a public record upon its acceptance by a vote of the majority of the members of the committee, except for any names of specific individuals and entities contained in the report. If the committee recommends disciplinary action or reports its findings to the appropriate prosecuting authority for proceedings in prosecution of the violations alleged in the complaint, the investigatory report regarding the complaint shall become a public record in its entirety.

(F)(1) Any file obtained by or in the possession of the former house ethics committee or former senate ethics committee shall become the property of the joint legislative ethics committee. Any such file is confidential if either of the following applies:

(a) It is confidential under section 102.06 of the Revised Code or the legislative code of ethics.

(b) If the file was obtained from the former house ethics committee or from the former senate ethics committee, it was confidential under any statute or any provision of a code of ethics that governed the file.

(2) As used in this division, "file" includes, but is not limited to, evidence, documentation, or any other tangible thing.

Sec. 101.72. (A) Each legislative agent and employer, within ten days following an engagement of a legislative agent, shall file with the joint legislative ethics committee an initial registration statement showing all of the following:

(1) The name, business address, and occupation of the legislative agent;

(2) The name and business address of the employer and the real party in interest on whose behalf the legislative agent is actively advocating, if it is different from the employer. For the purposes of division (A) of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer, the statement need not list the names and addresses of each member of the association or organization, so long as the association or organization itself is listed.

(3) A brief description of the type of legislation to which the engagement relates.

(B) In addition to the initial registration statement required by division (A) of this section, each legislative agent and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing

existence of each engagement described in an initial registration statement and that lists the specific bills or resolutions on which the agent actively advocated under that engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 101.73 of the Revised Code and any details of financial transactions required to be filed by section 101.74 of the Revised Code.

(C) If a legislative agent is engaged by more than one employer, the agent shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one legislative agent, the employer need file only one updated registration statement under division (B) of this section, which shall contain the information required by division (B) of this section regarding all of the legislative agents engaged by the employer.

(D)(1) A change in any information required by division (A)(1), (2), or (B) of this section shall be reflected in the next updated registration statement filed under division (B) of this section.

(2) Within thirty days after the termination of an engagement, the legislative agent who was employed under the engagement shall send written notification of the termination to the joint committee.

(E) Except as otherwise provided in this division, a registration fee of ~~ten~~ twenty-five dollars shall be charged for filing an initial registration statement. All money collected from registration fees under this division and late filing fees under division (G) of this section shall be deposited ~~to the credit of the joint legislative ethics committee fund created under section 101.34 of the Revised Code~~ into the general revenue fund of the state.

An officer or employee of a state agency who actively advocates in a fiduciary capacity as a representative of that state agency need not pay the registration fee prescribed by this division or file expenditure statements under section 101.73 of the Revised Code. As used in this division, "state agency" does not include a state institution of higher education as defined in section 3345.011 of the Revised Code.

(F) Upon registration pursuant to division (A) of this section, the legislative agent shall be issued a card by the joint committee showing that the legislative agent is registered. The registration card and the legislative agent's registration shall be valid from the date of their issuance until the next thirty-first day of December of an even-numbered year.

(G) The executive director of the joint committee shall be responsible for reviewing each registration statement filed with the joint committee under this section and for determining whether the statement contains all of the information required by this section. If the joint committee determines

that the registration statement does not contain all of the required information or that a legislative agent or employer has failed to file a registration statement, the joint committee shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the joint committee shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that does contain all of the information required by this section. If any person who receives a notice under this division fails to file a registration statement or such an amended registration statement within this fifteen-day period, the joint committee shall assess a late filing fee equal to twelve dollars and fifty cents per day, up to a maximum of one hundred dollars, upon that person. The joint committee may waive the late filing fee for good cause shown.

(H) On or before the fifteenth day of March of each year, the joint committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

Sec. 101.82. As used in sections 101.82 to 101.87 of the Revised Code:

(A) "Agency" means any board, commission, committee, or council, or any other similar state public body required to be established pursuant to state statutes for the exercise of any function of state government and to which members are appointed or elected. "Agency" does not include the following:

(1) The general assembly, or any commission, committee, or other body composed entirely of members ~~thereof~~ of the general assembly;

(2) Any court;

(3) Any public body created by or directly pursuant to the constitution of this state;

(4) The board of trustees of any institution of higher education financially supported in whole or in part by the state;

(5) Any public body that has the authority to issue bonds or notes or that has issued bonds or notes that have not been fully repaid;

(6) The public utilities commission of Ohio;

(7) The consumers' council governing board;

(8) The Ohio board of regents;

(9) Any state board or commission that has the authority to issue any final adjudicatory order that may be appealed to the court of common pleas under Chapter 119. of the Revised Code;

(10) Any board of elections;

(11) The board of directors of the Ohio insurance guaranty association and the board of governors of the Ohio fair plan underwriting association;

(12) The Ohio public employees deferred compensation board;

(13) The Ohio retirement study council;

(14) The board of trustees of the Ohio police and fire pension fund, public employees retirement board, school employees retirement board, state highway patrol retirement board, and state teachers retirement board;

(15) The industrial commission.

(B) "Abolish" means to repeal the statutes creating and empowering an agency, remove its personnel, and transfer its records to the department of administrative services pursuant to division ~~(H)~~(E) of section 149.331 of the Revised Code.

(C) "Terminate" means to amend or repeal the statutes creating and empowering an agency, remove its personnel, and reassign its functions and records to another agency or officer designated by the general assembly.

(D) "Transfer" means to amend the statutes creating and empowering an agency so that its functions, records, and personnel are conveyed to another agency or officer.

(E) "Renew" means to continue an agency, and may include amendment of the statutes creating and empowering the agency, or recommendations for changes in agency operation or personnel.

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the chief executive officer of each state retirement system; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the

department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing all of the following:

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

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

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

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

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

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

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

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

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

and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

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

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

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar,

or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

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

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

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

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

otherwise provided in this section.

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

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

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

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

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

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

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

For state office, except member of <u>the</u>	
state board of education	~~\$50~~ <u>65</u>
For office of member of United States	
congress or member of general assembly	~~\$25~~ <u>40</u>
For county office	~~\$25~~ <u>40</u>
For city office	~~\$10~~ <u>25</u>
For office of member of <u>the</u> state board	
of education	~~\$20~~ <u>25</u>
For office of member of <u>a</u> city, local,	
exempted village, or cooperative	
education board of	
education or educational service	
center governing board	~~\$ 5~~ <u>20</u>
For position of business manager,	
treasurer, or superintendent of <u>a</u>	
city, local, exempted village, joint	
vocational, or cooperative education	
school district or	
educational service center	~~\$ 5~~ <u>20</u>

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be

required to pay the fee required under division (E)(1) or (2) or (F) of this section.

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

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

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

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

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

Sec. 107.12. (A) As used in this section, "organization" means a faith-based or other organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and provides charitable services to needy residents of this state.

(B) There is hereby established within the office of the governor the governor's office of faith-based and community initiatives. The office shall:

(1) Serve as a clearinghouse of information on federal, state, and local funding for charitable services performed by organizations;

(2) Encourage organizations to seek public funding for their charitable services;

(3) Act as a liaison between state agencies and organizations;

(4) Advise the governor, general assembly, and the advisory board of the governor's office of faith-based community initiatives on the barriers that exist to collaboration between organizations and governmental entities and on ways to remove the barriers.

(C) The governor shall appoint an executive assistant to manage the office and perform or oversee the performance of the duties of the office.

(D)(1) There is hereby created the advisory board of the governor's office of faith-based and community initiatives. The board shall consist of members appointed as follows:

(a) The directors of aging, alcohol and drug addiction services, rehabilitation and correction, health, job and family services, mental health, and youth services shall each appoint to the board one employee of that director's department.

(b) The speaker of the house of representatives shall appoint to the board two members of the house of representatives, not more than one of whom shall be from the same political party and at least one of whom shall be from the legislative black caucus. The speaker of the house of representatives shall consult with the president of the legislative black caucus in making the legislative black caucus member appointment. The president of the senate shall appoint to the board two members of the senate, not more than one of whom shall be from the same political party.

(c) The governor, speaker of the house of representatives, and president of the senate shall each appoint to the board three representatives of the nonprofit, faith-based and other nonprofit community.

(2) The appointments to the board shall be made within thirty days after the effective date of this section. Terms of the office shall be one year. Any vacancy that occurs on the board shall be filled in the same manner as the original appointment. The members of the board shall serve without compensation.

(3) At its initial meeting, the board shall elect a chairperson. The chairperson shall be a member of the board who is a member of the house of representatives.

(E) The board shall do both of the following:

(1) Provide direction, guidance, and oversight to the office;

(2) Publish a report of its activities on or before the first day of August

of each year, and deliver copies of the report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate.

Sec. 107.31. (A) As used in this section:

(1) "State institutional facility" means any institution or other facility, in operation on or after January 1, 2003, for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government.

(2) "Target state agency" means the agency of state government that operates the institutional facility or facilities that the governor believes should be closed.

(B) Prior to the closing of a state institutional facility, the target state agency shall conduct a survey and analysis of the needs of each client at that facility for the purpose of ensuring that each client's identified needs during the transition and in the client's new setting are met. A copy of the analysis, devoid of any client identifying information, as well as the target state agency's proposal for meeting the needs of the clients, shall be submitted to the general assembly in accordance with section 101.68 of the Revised Code at least two months prior to the closing.

Sec. 107.32. (A) As used in this section and section 107.33 of the Revised Code:

(1) "State institutional facility" means any institution or other facility for the housing of any person that is under the control of the department of rehabilitation and correction, the department of youth services, the department of mental retardation and developmental disabilities, the department of mental health, or any other agency or department of state government.

(2) "Target state agency" means the agency of state government that the governor identifies in a notice provided under division (C)(1) of this section and that operates an institutional facility or facilities the governor believes should be closed.

(B) Notwithstanding any other provision of law, the governor shall not order the closure of any state institutional facility, for the purpose of expenditure reductions or budget cuts, other than in accordance with this section.

(C) If the governor determines that necessary expenditure reductions and budget cuts cannot be made without closing one or more state institutional facilities, all of the following apply:

(1) The governor shall determine which state agency's institutional facility or facilities the governor believes should be closed, shall notify the general assembly and that agency of that determination, and shall specify in the notice the number of facilities of that agency that the governor believes should be closed and the anticipated savings to be obtained through that closure or those closures.

(2) Upon the governor's provision of the notice described in division (C)(1) of this section, a state facilities closure commission shall be created as described in division (D) of this section regarding the target state agency. Not later than seven days after the governor provides that notice, the officials with the duties to appoint members of the commission for the target state agency, as described in division (D) of this section, shall appoint the specified members of the commission, and, as soon as possible after the appointments, the commission shall meet for the purposes described in that division. Not later than thirty days after the governor provides the notice described in division (C)(1) of this section, the state facilities closure commission shall provide to the general assembly, the governor, and the target state agency a report that contains the commission's recommendation as to the state institutional facility or facilities of the target state agency that the governor may close. The anticipated savings to be obtained by the commission's recommendation shall be approximately the same as the anticipated savings the governor specified in the governor's notice provided under division (C)(1) of this section, and, if the recommendation identifies more than one facility, it shall list them in order of the commission's preference for closure. A state facilities closure commission created for a particular target state agency shall make a report only regarding that target state agency and shall include no recommendations regarding any other state agency or department in its report.

(3) Upon receipt of the report of the state facilities closure commission under division (C)(2) of this section for a target state agency, if the governor still believes that necessary expenditure reductions and budget cuts cannot be made without closing one or more state institutional facilities, the governor may close state institutional facilities of the target state agency that are identified in the commission's recommendation contained in the report. Except as otherwise provided in this division, the governor shall not close any state institutional facility of the target state agency that is not listed in the commission's recommendation, and shall not close multiple institutions in any order other than the order of the commission's preference as specified in the recommendation. The governor is not required to follow the recommendation of the commission in closing an institutional facility if the

governor determines that a significant change in circumstances makes the recommendation unworkable.

(D) A state facilities closure commission shall be created at the time and in the manner specified in division (C)(2) of this section. If more than one state agency or department is a target state agency, a separate state facilities closure commission shall be created for each such target state agency. Each commission consists of eleven members. Three members shall be members of the house of representatives appointed by the speaker of the house of representatives, none of the members so appointed may have a state institutional facility of the target state agency in the member's district, two of the members so appointed shall be members of the majority political party in the house of representatives, and one of the members so appointed shall not be a member of the majority political party in the house of representatives. Three members shall be members of the senate appointed by the president of the senate, none of the members so appointed may have a state institutional facility of the target state agency in the member's district, two of the members so appointed shall be members of the majority political party in the senate, and one of the members so appointed shall not be a member of the majority political party in the senate. One member shall be the director of budget and management. One member shall be the director, or other agency head, of the target state agency. Two members shall be private executives with expertise in facility utilization, with one of these members appointed by the speaker of the house of representatives and the other appointed by the president of the senate, and neither of the members so appointed may have a state institutional facility of the target state agency in the county in which the member resides. One member shall be a representative of the Ohio civil service employees' association or other representative association of the employees of the target state agency, appointed by the speaker of the house of representatives. The officials with the duties to appoint members of the commission shall make the appointments, and the commission shall meet, within the time periods specified in division (C)(2) of this section. The members of the commission shall serve without compensation. At the commission's first meeting, the members shall organize, and appoint a chairperson and vice-chairperson.

The commission shall determine which state institutional facility or facilities under the control of the target state agency for which the commission was created should be closed. In making this determination, the commission shall, at a minimum, consider the following factors:

- (1) Whether there is a need to reduce the number of facilities;
- (2) The availability of alternate facilities;

- (3) The cost effectiveness of the facilities;
- (4) The geographic factors associated with each facility and its proximity to other similar facilities;
- (5) The impact of collective bargaining on facility operations;
- (6) The utilization and maximization of resources;
- (7) Continuity of the staff and ability to serve the facility population;
- (8) Continuing costs following closure of a facility;
- (9) The impact of the closure on the local economy;
- (10) Alternatives and opportunities for consolidation with other facilities.

The commission shall meet as often as necessary to make its determination, may take testimony and consider all relevant information, and shall prepare and provide in accordance with division (C)(2) of this section a report containing its recommendations. Upon providing the report regarding the target state agency, the commission shall cease to exist, provided that another commission shall be created for the same state agency if the agency is made a target state agency in another report provided under division (C)(1) of this section and provided that another commission shall be created for a different state agency if that other agency is made a target state agency in a report provided under that division.

Sec. 107.33. Notwithstanding any other provision of law, if the closure of the particular facility is authorized under section 107.32 of the Revised Code, the governor may terminate any contract entered into under section 9.06 of the Revised Code for the private operation and management of any correctional facility under the control of the department of rehabilitation and correction, including, but not limited to the initial intensive program prison established pursuant to section 5120.033 of the Revised Code as it existed prior to the effective date of this section, and terminate the operation of, and close that facility. If the governor terminates a contract for the private operation and management of a facility, and terminates the operation of, and closes, the facility as described in this section, inmates in the facility shall be transferred to another correctional facility under the control of the department. If the initial intensive program prison is closed, divisions (G)(2)(a) and (b) of section 2929.13 of the Revised Code have no effect while the facility is closed.

Sec. 109.32. All annual filing fees obtained by the attorney general pursuant to section 109.31 of the Revised Code, all receipts obtained from the sale of the charitable foundations directory, all registration fees received by the attorney general, bond forfeitures, awards of costs and attorney's fees, and civil penalties assessed under Chapter 1716. of the Revised Code, and

all license fees received by the attorney general under section 2915.08, 2915.081, or 2915.082 of the Revised Code shall be paid into the state treasury to the credit of the charitable law fund. The charitable law fund shall be used insofar as its moneys are available for the expenses of the charitable law section of the office of the attorney general, except that all annual license fees that are received by the attorney general under section 2915.08, 2915.081, or 2915.082 of the Revised Code and that are credited to the fund shall be used by the attorney general, or any law enforcement agency in cooperation with the attorney general, for the purposes specified in division ~~(G)~~(H) of section 2915.10 of the Revised Code and to administer and enforce Chapter 2915. of the Revised Code. The expenses of the charitable law section in excess of moneys available in the charitable law fund shall be paid out of regular appropriations to the office of the attorney general.

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act

that would be a felony or an offense of violence if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;

(b) The style and number of the case;

(c) The date of arrest;

(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final

resolution of the case;

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.

If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

(4) The superintendent shall carry out Chapter 2950. of the Revised Code with respect to the registration of persons who are convicted of or plead guilty to a sexually oriented offense and with respect to all other duties imposed on the bureau under that chapter.

(B) The superintendent shall prepare and furnish to every county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every

clerk of a court in this state specified in division (A)(2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible formats and electronic formats.

(C) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to gather and disseminate information, data, and statistics for the use of law enforcement agencies. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

(D) The information and materials furnished to the superintendent pursuant to division (A) of this section and information and materials furnished to any board or person under division (F) or (G) of this section are not public records under section 149.43 of the Revised Code.

(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), ~~or (5)~~, or (6) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2)(a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 5126.28, 5126.281, or 5153.111

of the Revised Code, the board of education of any school district; the director of mental retardation and developmental disabilities; any county board of mental retardation and developmental disabilities; any entity under contract with a county board of mental retardation and developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; or the executive director of a public children services agency may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. Within thirty days of the date that the superintendent receives a request, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education is required to receive information under this section as a prerequisite to employment of an individual pursuant to section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district only shall accept a certified copy of records of that

nature within one year after the date of their issuance by the bureau.

(3) The state board of education may request, with respect to any individual who has applied for employment after October 2, 1989, in any position with the state board or the department of education, any information that a school district board of education is authorized to request under division (F)(2) of this section, and the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(4) When the superintendent of the bureau receives a request for information that is authorized under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has been received from a school district board of education under division (F)(2) of this section.

(5) When a recipient of an OhioReads classroom or community reading grant paid under section 3301.86 or 3301.87 of the Revised Code or an entity approved by the OhioReads council requests, with respect to any individual who applies to participate in providing any program or service through an entity approved by the OhioReads council or funded in whole or in part by the grant, the information that a school district board of education is authorized to request under division (F)(2)(a) of this section, the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F)(2)(a) of this section.

(G) In addition to or in conjunction with any request that is required to be made under section 173.41, 3701.881, 3712.09, 3721.121, or 3722.151 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult, the chief administrator of a PASSPORT agency that provides services through the PASSPORT program created under section 173.40 of the Revised Code, home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code, or adult care facility may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, on request of the administrator requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to that individual. Within

thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(H) Information obtained by a board, administrator, or other person under this section is confidential and shall not be released or disseminated.

(I) The superintendent may charge a reasonable fee for providing information or criminal records under division (F)(2) or (G) of this section.

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to section 2151.86, 3301.32, 3301.541, 3319.39, 5104.012, 5104.013, or 5153.111 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(1)(a) of this section.

(2) On receipt of a request pursuant to section 5123.081 of the Revised Code with respect to an applicant for employment in any position with the

department of mental retardation and developmental disabilities, pursuant to section 5126.28 of the Revised Code with respect to an applicant for employment in any position with a county board of mental retardation and developmental disabilities, or pursuant to section 5126.281 of the Revised Code with respect to an applicant for employment in a direct services position with an entity contracting with a county board for employment, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, or 3716.11 of the Revised Code;

(b) An existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(2)(a) of this section.

(3) On receipt of a request pursuant to section 173.41, 3712.09, 3721.121, or 3722.151 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check with respect to any person who has applied for employment in a position that involves providing direct care to an older adult. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323,

2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(3)(a) of this section.

(4) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency as a person responsible for the care, custody, or control of a child, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(4)(a) of this section.

(5) On receipt of a request pursuant to section 5111.95 or 5111.96 of the Revised Code with respect to an applicant for employment with a waiver agency participating in a department of job and family services administered home and community-based waiver program or an independent provider participating in a department administered home and community-based waiver program in a position that involves providing home and community-based waiver services to consumers with disabilities, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division

(C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section.

(6) On receipt of a request pursuant to section 3701.881 of the Revised Code with respect to an applicant for employment with a home health agency in a position that involves providing direct care to an older adult, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check. The superintendent shall conduct the criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09,

2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(~~5~~)(6)(a) of this section.

~~(6)~~(7) When conducting a criminal records check upon a request pursuant to section 3319.39 of the Revised Code for an applicant who is a teacher, in addition to the determination made under division (A)(1) of this section, the superintendent shall determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any offense specified in section 3319.31 of the Revised Code.

~~(7)~~(8) When conducting a criminal records check on a request pursuant to section 2151.86 of the Revised Code for a person who is a prospective foster caregiver or who is eighteen years old or older and resides in the home of a prospective foster caregiver, the superintendent, in addition to the determination made under division (A)(1) of this section, shall determine whether any information exists that indicates that the person has been convicted of or pleaded guilty to a violation of:

(a) Section 2909.02 or 2909.03 of the Revised Code;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to section 2909.02 or 2909.03 of the Revised Code.

~~(8)~~(9) Not later than thirty days after the date the superintendent receives the request, completed form, and fingerprint impressions, the superintendent shall send the person, board, or entity that made the request any information, other than information the dissemination of which is prohibited by federal law, the superintendent determines exists with respect to the person who is the subject of the request that indicates that the person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, as appropriate. The superintendent shall send the person, board, or entity that made the request a copy of the list of offenses specified in division (A)(1), (2), (3), (4), (5), (6), ~~or (7)~~, or (8) of this section, as appropriate. If the request was made under section 3701.881 of the Revised Code with regard to an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an

older adult, the superintendent shall provide a list of the offenses specified in divisions (A)(4) and ~~(5)(6)~~ of this section.

(B) The superintendent shall conduct any criminal records check requested under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code as follows:

(1) The superintendent shall review or cause to be reviewed any relevant information gathered and compiled by the bureau under division (A) of section 109.57 of the Revised Code that relates to the person who is the subject of the request, including any relevant information contained in records that have been sealed under section 2953.32 of the Revised Code;

(2) If the request received by the superintendent asks for information from the federal bureau of investigation, the superintendent shall request from the federal bureau of investigation any information it has with respect to the person who is the subject of the request and shall review or cause to be reviewed any information the superintendent receives from that bureau.

(C)(1) The superintendent shall prescribe a form to obtain the information necessary to conduct a criminal records check from any person for whom a criminal records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The form that the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(2) The superintendent shall prescribe standard impression sheets to obtain the fingerprint impressions of any person for whom a criminal records check is required by section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. Any person for whom a records check is required by any of those sections shall obtain the fingerprint impressions at a county sheriff's office, municipal police department, or any other entity with the ability to make fingerprint impressions on the standard impression sheets prescribed by the superintendent. The office, department, or entity may charge the person a reasonable fee for making the impressions. The standard impression sheets the superintendent prescribes pursuant to this division may be in a tangible format, in an electronic format, or in both tangible and electronic formats.

(3) Subject to division (D) of this section, the superintendent shall prescribe and charge a reasonable fee for providing a criminal records check

requested under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code. The person making a criminal records request under section 173.41, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3722.151, 5104.012, 5104.013, 5111.95, 5111.96, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code shall pay the fee prescribed pursuant to this division. A person making a request under section 3701.881 of the Revised Code for a criminal records check for an applicant who may be both responsible for the care, custody, or control of a child and involved in providing direct care to an older adult shall pay one fee for the request.

(4) The superintendent of the bureau of criminal identification and investigation may prescribe methods of forwarding fingerprint impressions and information necessary to conduct a criminal records check, which methods shall include, but not be limited to, an electronic method.

(D) A determination whether any information exists that indicates that a person previously has been convicted of or pleaded guilty to any offense listed or described in division (A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or (b), (A)(5)(a) or (b), (A)(6), ~~or~~ (A)(7)(a) or (b), or (A)(8)(a) or (b) of this section that is made by the superintendent with respect to information considered in a criminal records check in accordance with this section is valid for the person who is the subject of the criminal records check for a period of one year from the date upon which the superintendent makes the determination. During the period in which the determination in regard to a person is valid, if another request under this section is made for a criminal records check for that person, the superintendent shall provide the information that is the basis for the superintendent's initial determination at a lower fee than the fee prescribed for the initial criminal records check.

(E) As used in this section:

(1) "Criminal records check" means any criminal records check conducted by the superintendent of the bureau of criminal identification and investigation in accordance with division (B) of this section.

(2) "Home and community-based waiver services" and "waiver agency" have the same meanings as in section 5111.95 of the Revised Code.

(3) "Independent provider" has the same meaning as in section 5111.96 of the Revised Code.

(4) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

~~(3)~~(5) "Older adult" means a person age sixty or older.

Sec. 117.101. The auditor of state ~~may establish~~ shall provide, operate,

and maintain a uniform and compatible computerized financial management and accounting system known as the uniform accounting network. ~~Any such~~ The network shall be designed to provide public offices, other than state agencies and the Ohio education computer network and public school districts, with efficient and economical access to data processing and management information facilities and expertise. In accordance with this objective, activities of the network shall include, but not be limited to, provision, maintenance, and operation of the following facilities and services:

(A) A cooperative program of technical assistance for public offices, other than state agencies and the Ohio education computer network and public school districts, including, but not limited to, an adequate computer software system and a data base;

(B) An information processing service center providing approved computerized financial accounting and reporting services to participating public offices.

The auditor of state and any public office, other than a state agency and the Ohio education computer network and public school districts, may enter into any necessary agreements, without advertisement or bidding, for the provision of necessary goods, materials, supplies, and services to such public offices by the auditor of state through the network.

The auditor of state may, by rule, provide for a system of user fees to be charged participating public offices for goods, materials, supplies, and services received from the network. All such fees shall be paid into the state treasury to the credit of the uniform accounting network fund, which is hereby created. The fund shall be used by the auditor of state to pay the costs of establishing and maintaining the network. The fund shall be assessed a proportionate share of the auditor of state's administrative costs in accordance with procedures prescribed by the auditor of state and approved by the director of budget and management.

Sec. 117.16. (A) The auditor of state shall do all of the following:

(1) Develop a force account project assessment form that each public office that undertakes force account projects shall use to estimate or report the cost of a force account project. The form shall include costs for employee salaries and benefits, any other labor costs, materials, freight, fuel, hauling, overhead expense, workers' compensation premiums, and all other items of cost and expense, including a reasonable allowance for the use of all tools and equipment used on or in connection with such work and for the depreciation on the tools and equipment.

(2) Make the form available to public offices by any cost-effective,

convenient method accessible to the auditor of state and the public offices;

(3) When conducting an audit under this chapter of ~~such~~ a public office ~~under this chapter that undertakes force account projects~~, examine ~~a sample of the forms and records of any a sampling of the~~ force account ~~project that projects~~ the public office completed since an audit was last conducted, to determine compliance with ~~the its~~ force account limits ~~and other force account provisions established by law~~. ~~If the auditor of state finds a violation of the force account limits, the auditor of state shall conduct an audit of each force account project completed since an audit was last conducted.~~

(B) If the auditor of state receives a complaint from any person that a public office has violated the force account limits established for that office, the auditor of state may conduct an audit in addition to the audit provided in section 117.11 of the Revised Code if the auditor of state has reasonable cause to believe that an additional audit is in the public interest.

(C)(1) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision, the auditor of state, in addition to any other action authorized by this chapter, shall notify the political subdivision that, for a period of one year from the date of the notification, the force account limits for the subdivision are reduced as follows:

(a) For a county, the limits shall be ten thousand dollars per mile for construction or reconstruction of a road and forty thousand dollars for construction, reconstruction, maintenance, or repair of a bridge or culvert;

(b) For a township, the limit shall be fifteen thousand dollars for maintenance and repair of a road or five thousand per mile for construction or reconstruction of a township road;

(c) For a municipal corporation, the limit shall be ten thousand dollars for the construction, reconstruction, widening, resurfacing, or repair of a street or other public way.

(2) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision a second or subsequent time, the auditor of state, in addition to any other action authorized by this chapter, shall notify the political subdivision that, for a period of two years from the date of the notification, the force account limits for the subdivision are reduced in accordance with division (C)(1)(a), (b), or (c) of this section.

(3) If the auditor of state finds that a county, township, or municipal corporation violated the force account limits established for that political subdivision a third or subsequent time, the ~~subdivision shall pay the~~ auditor

of state shall certify to the tax commissioner an amount the auditor of state determines to be twenty per cent of the total cost of the force account project that is the basis of the violation. ~~The~~ Upon receipt of this certification, the tax commissioner shall withhold the certified amount from any funds under the tax commissioner's control that are due or payable to that political subdivision. The tax commissioner shall promptly deposit this withheld amount to the credit of the local transportation improvement program fund created by section 164.14 of the Revised Code.

If the tax commissioner determines that no funds are due and payable to the violating political subdivision or that insufficient amounts of such funds are available to cover the entire certified amount, the tax commissioner shall withhold and deposit to the credit of the local transportation improvement program fund any amount available and certify the remaining amount to be withheld to the county auditor of the county in which the political subdivision is located. The county auditor shall withhold from that political subdivision any amount, up to that certified by the tax commissioner, that is available from any funds under the county auditor's control, that is due or payable to that political subdivision, and that can be lawfully withheld. The county auditor shall promptly pay that withheld amount to the tax commissioner for deposit into the local transportation improvement program fund.

The payments required under division (C)(3) of this section are in addition to the force account limit reductions ~~under~~ described in division (C)(2) of this section and also are in addition to any other action authorized by this chapter. ~~The auditor of state shall certify any money due under division (C)(3) of this section for collection in accordance with division (D) of section 117.13 of the Revised Code.~~

(D) If the auditor of state finds that a county, township, or municipal corporation violated its force account ~~limit~~ limits when participating in a joint force account project, the auditor of state shall impose the reduction in force account limits under division (C) of this section on all entities participating in the joint project.

(E) As used in this section, "force account limits" means any of the following, as applicable:

(1) For a county, the amounts established in section 5543.19 of the Revised Code;

(2) For a township, the amounts established in section 5575.01 of the Revised Code;

(3) For a municipal corporation, the amount established in section 723.52 of the Revised Code;

(4) For the department of transportation, the amount established in section 5517.02 of the Revised Code.

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

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

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

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

The auditor of state may provide any other appropriate training or educational programs that may be developed and offered by the auditor of state or in collaboration with one or more other state agencies, political subdivisions, or other public or private entities.

There is hereby established in the state treasury the auditor of state training program fund, to be used by the auditor of state for the actual and necessary expenses of any training programs held pursuant to this section, section 117.441, or section 321.46 of the Revised Code. All registration fees collected under this section shall be paid into the fund.

Sec. 117.45. (A) The auditor of state shall draw warrants against the treasurer of state pursuant to all requests for payment that the director of budget and management has approved under section 126.07 of the Revised Code.

(B) Unless the director of job and family services has provided for the making of payments by electronic benefit transfer, if a financial institution and account have been designated by the participant or recipient, payment by the auditor of state to a participant in the Ohio works first program pursuant to Chapter 5107. of the Revised Code or a recipient of disability financial assistance pursuant to Chapter 5115. of the Revised Code shall be made by direct deposit to the account of the participant or recipient in the financial institution. Payment by the auditor of state to a recipient of benefits distributed through the medium of electronic benefit transfer pursuant to section 5101.33 of the Revised Code shall be by electronic benefit transfer. Payment by the auditor of state as compensation to an employee of the state who has, pursuant to section 124.151 of the Revised Code, designated a financial institution and account for the direct deposit of such payments shall be made by direct deposit to the account of the employee. Payment to any other payee who has designated a financial institution and account for the direct deposit of such payment may be made by direct deposit to the account of the payee in the financial institution as provided in section 9.37 of the Revised Code. The auditor of state shall contract with an authorized financial institution for the services necessary to make direct deposits or electronic benefit transfers under this division and draw lump sum warrants payable to that institution in the amount to be transferred. Accounts maintained by the auditor of state or the auditor of state's agent in a financial institution for the purpose of effectuating payment by direct deposit or electronic benefit transfer shall be maintained in accordance with section 135.18 of the Revised Code.

(C) All other payments from the state treasury shall be made by paper warrants or by direct deposit payable to the respective payees. The auditor of state may mail the paper warrants to the respective payees or distribute them through other state agencies, whichever the auditor of state determines to be the better procedure.

(D) If the average per transaction cost the auditor of state incurs in making direct deposits for a state agency exceeds the average per transaction cost the auditor of state incurs in drawing paper warrants for all public offices during the same period of time, the auditor of state may certify the difference in cost and the number of direct deposits for the agency to the director of administrative services. The director shall reimburse the auditor of state for such additional costs and add the amount to the processing charge assessed upon the state agency.

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

In the department of commerce:

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

In the department of administrative services:

- State architect and engineer;
- Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

- Administration;
- Animal industry;
- Dairy;
- Food safety;
- Plant industry;
- Markets;
- Meat inspection;
- Consumer analytical laboratory;
- Amusement ride safety;
- Enforcement;
- Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

- Water;
- Mineral resources management;
- Forestry;
- Natural areas and preserves;
- Wildlife;
- Geological survey;
- Parks and recreation;
- Watercraft;
- Recycling and litter prevention;
- ~~Civilian conservation;~~
- Soil and water conservation;
- Real estate and land management;
- Engineering.

In the department of insurance:

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

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

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

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

(2) All provisions of law governing the superintendent of financial institutions shall apply to and govern the superintendent of financial institutions provided for in this section; all authority vested by law in the superintendent of financial institutions with respect to the management of the division of financial institutions shall be construed as vested in the superintendent of financial institutions created by this section with respect to the division of financial institutions provided for in this section; and all

rights, privileges, and emoluments conferred by law upon the superintendent of financial institutions shall be construed as conferred upon the superintendent of financial institutions as head of the division of financial institutions. The director of commerce shall not transfer from the division of financial institutions any of the functions specified in division (C)(2) of this section.

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

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

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

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

(H) There is hereby created in the department of commerce a division of real estate and professional licensing, which shall be under the control and supervision of the director of commerce. The division of real estate and professional licensing shall be administered by a superintendent of real estate and professional licensing. The superintendent of real estate and professional licensing shall exercise the powers and perform the functions and duties delegated to the superintendent under Chapters ~~4707.~~, 4735., 4749., 4763., and 4767. of the Revised Code.

(I) There is hereby created in the department of commerce a division of labor and worker safety, which shall have all powers and perform all duties

vested by law in the superintendent of labor and worker safety. Wherever powers are conferred or duties imposed upon the superintendent of labor and worker safety, such powers and duties shall be construed as vested in the division of labor and worker safety. The division of labor and worker safety is under the control and supervision of the director of commerce, and administered by a superintendent of labor and worker safety. The superintendent of labor and worker safety shall exercise the powers and perform the duties delegated to the superintendent by the director under Chapters ~~4709~~: 4109., ~~4711~~: 4111., ~~4715~~: 4115., and ~~4767~~: 4167. of the Revised Code.

Sec. 121.084. (A) All moneys collected under sections ~~1333.96~~, 3783.05, 3791.07, 4104.07, 4104.18, ~~4104.42~~, 4104.44, ~~4104.45~~, 4105.17, 4105.20, 4169.03, 4171.04, and 5104.051 of the Revised Code, and any other moneys collected by the division of industrial compliance shall be paid into the state treasury to the credit of the industrial compliance operating fund, which is hereby created. The department of commerce shall use the moneys in the fund for paying the operating expenses of the division and the administrative assessment described in division (B) of this section.

(B) The director of commerce, with the approval of the director of budget and management, shall prescribe procedures for assessing the industrial compliance operating fund a proportionate share of the administrative costs of the department of commerce. The assessment shall be made in accordance with those procedures and be paid from the industrial compliance operating fund to the division of administration fund created in section 121.08 of the Revised Code.

Sec. 121.36. (A) As used in this section, "home care dependent adult" means an individual who resides in a private home or other noninstitutional and unlicensed living arrangement, without the presence of a parent or guardian, but has health and safety needs that require the provision of regularly scheduled home care services to remain in the home or other living arrangement because one of the following is the case:

(1) The individual is at least twenty-one years of age but less than sixty years of age and has a physical disability or mental impairment.

(2) The individual is sixty years of age or older, regardless of whether the individual has a physical disability or mental impairment.

(B) Except as provided in division (D) of this section, the departments of mental retardation and developmental disabilities, aging, job and family services, and health shall each implement this section with respect to all contracts entered into by the department for the provision of home care services to home care dependent adults that are paid for in whole or in part

with federal, state, or local funds. Except as provided in division (D) of this section, each department shall also require all public and private entities that receive money from or through the department to comply with this section when entering into contracts for the provision of home care services to home care dependent adults that are paid for in whole or in part with federal, state, or local funds. Such entities may include county boards of mental retardation and developmental disabilities, area agencies on aging, county departments of job and family services, and boards of health of city and general health districts.

(C) Beginning one year after the effective date of this section, each contract subject to this section shall include terms requiring that the provider of home care services to home care dependent adults have a system in place that effectively monitors the delivery of the services by its employees. To be considered an effective monitoring system for purposes of the contract, the system established by a provider must include at least the following components:

(1) When providing home care services to home care dependent adults who have a mental impairment or life-threatening health condition, a mechanism to verify whether the provider's employees are present at the location where the services are to be provided and at the time the services are to be provided;

(2) When providing home care services to all other home care dependent adults, a system to verify at the end of each working day whether the provider's employees have provided the services at the proper location and time;

(3) A protocol to be followed in scheduling a substitute employee when the monitoring system identifies that an employee has failed to provide home care services at the proper location and time, including standards for determining the length of time that may elapse without jeopardizing the health and safety of the home care dependent adult;

(4) Procedures for maintaining records of the information obtained through the monitoring system;

(5) Procedures for compiling annual reports of the information obtained through the monitoring system, including statistics on the rate at which home care services were provided at the proper location and time;

(6) Procedures for conducting random checks of the accuracy of the monitoring system. For purposes of conducting these checks, a random check is considered to be a check of not more than five per cent of the home care visits the provider's employees make to different home care dependent adults within a particular work shift.

(D) In implementing this section, the departments shall exempt providers of home care services who are self-employed providers with no other employees or are otherwise considered by the departments not to be agency providers. The departments shall conduct a study on how the exempted providers may be made subject to the requirement of effectively monitoring whether home care services are being provided and have been provided at the proper location and time. Not later than two years after the effective date of this section, the departments shall prepare a report of their findings and recommendations. The report shall be submitted to the president of the senate and the speaker of the house of representatives.

(E) The departments of mental retardation and developmental disabilities, aging, job and family services, and health shall each adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 121.41. As used in sections 121.41 to 121.50 of the Revised Code:

(A) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code.

(B) "Appropriate licensing agency" means a public or private entity that is responsible for licensing, certifying, or registering persons who are engaged in a particular vocation.

(C) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes any officer or employee of the state or any political subdivision of the state.

~~(D)~~(1) "State agency" has the same meaning as in section 1.60 of the Revised Code ~~but~~ and also includes any of the following:

(a) The Ohio retirement study council;

(b) The public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system;

(c) The Ohio historical society.

(2) "State agency" does not include any of the following:

~~(1)~~(a) The general assembly;

~~(2)~~(b) Any court;

~~(3)~~(c) The secretary of state, auditor of state, treasurer of state, or attorney general and their respective offices;

(d) Any member of the Ohio retirement study council, of the board of trustees of the Ohio police and fire pension fund, or of the retirement board of the public employees retirement system, the state teachers retirement system, the school employees retirement system, or the state highway patrol retirement system who is under the jurisdiction of the joint legislative ethics

committee or the board of commissioners on grievances and discipline of the supreme court.

(E) "State employee" means any person who is an employee of a state agency or any person who does business with the state.

(F) "State officer" means any person who is elected or appointed to a public office in a state agency.

(G) "Wrongful act or omission" means an act or omission, committed in the course of office holding or employment, that is not in accordance with the requirements of law or ~~such~~ the standards of proper governmental conduct ~~as that~~ are commonly accepted in the community and thereby subverts, or tends to subvert, the process of government.

Sec. 121.48. There is hereby created the office of the inspector general, to be headed by the inspector general.

The governor shall appoint the inspector general, subject to section 121.49 of the Revised Code and the advice and consent of the senate. The inspector general shall hold office for a term coinciding with the term of the appointing governor. The governor may remove the inspector general from office only after delivering written notice to the inspector general of the reasons for which ~~he~~ the governor intends to remove ~~him~~ the inspector general from office and providing ~~him~~ the inspector general with an opportunity to appear and show cause why ~~he~~ the inspector general should not be removed.

In addition to the duties imposed by section 121.42 of the Revised Code, the inspector general shall manage the office of the inspector general. The inspector general shall establish and maintain offices in Columbus.

The inspector general may appoint one or more deputy inspectors general. Each deputy inspector general shall serve for a term coinciding with the term of the appointing inspector general, and shall perform ~~such~~ the duties, including the performance of investigations, ~~as that~~ are assigned by the inspector general. All deputy inspectors general are in the unclassified service and serve at the pleasure of the inspector general.

In addition to deputy inspectors general, the inspector general may appoint ~~such~~ professional, technical, and clerical employees ~~as that~~ are necessary for the effective and efficient operation of the office of the inspector general. All professional, technical, and clerical employees of the office of the inspector general are in the unclassified service and serve at the pleasure of the appointing inspector general.

The inspector general may enter into any contracts that are necessary to the operation of the office of the inspector general. The contracts may include, but are not limited to, contracts for the services of persons who are

experts in a particular field and whose expertise is necessary to the successful completion of an investigation.

The inspector general may accept from private parties, state agencies, or other entities reimbursement of the costs of investigations by the inspector general that result in judicial or administrative proceedings against the parties, agencies, or entities.

Not later than the first day of March in each year, the inspector general shall publish an annual report summarizing the activities of ~~his~~ the inspector general's office during the previous calendar year. The annual report shall not disclose the results of any investigation insofar as the results are designated as confidential under section 121.44 of the Revised Code.

The inspector general shall provide copies of ~~his~~ the inspector general's annual report to the governor and the general assembly. The inspector general also shall provide a copy of ~~his~~ the annual report to any other person who requests the copy and pays a fee prescribed by the inspector general. The fee shall not exceed the cost of reproducing and delivering the annual report.

Sec. 121.62. (A) Each executive agency lobbyist and each employer shall file with the joint legislative ethics committee, within ten days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:

(1) The name, business address, and occupation of the executive agency lobbyist;

(2) The name and business address of the employer or of the real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. For the purposes of division (A) of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed.

(3) A brief description of the executive agency decision to which the engagement relates;

(4) The name of the executive agency or agencies to which the engagement relates.

(B) In addition to the initial registration statement required by division (A) of this section, each executive agency lobbyist and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration

statement and that lists the specific executive agency decisions that the lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 121.63 of the Revised Code and any details of financial transactions required to be filed by section 121.64 of the Revised Code.

(C) If an executive agency lobbyist is engaged by more than one employer, the lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one executive agency lobbyist, the employer need file only one updated registration statement under division (B) of this section, which shall contain the information required by division (B) of this section regarding all of the executive agency lobbyists engaged by the employer.

(D)(1) A change in any information required by division (A)(1), (2), or (B) of this section shall be reflected in the next updated registration statement filed under division (B) of this section.

(2) Within thirty days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall send written notification of the termination to the joint committee.

(E) A registration fee of ~~ten~~ twenty-five dollars shall be charged for filing an initial registration statement. All money collected from this fee shall be deposited into the ~~state treasury to the credit of the joint legislative ethics committee fund created under section 101.34 of the Revised Code~~ general revenue fund of the state.

(F) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card by the joint committee showing that the lobbyist is registered. The registration card and the executive agency lobbyist's registration shall be valid from the date of their issuance until the thirty-first day of January of the year following the year in which the initial registration was filed.

(G) The executive director of the joint committee shall be responsible for reviewing each registration statement filed with the joint committee under this section and for determining whether the statement contains all of the required information. If the joint committee determines that the registration statement does not contain all of the required information or that an executive agency lobbyist or employer has failed to file a registration statement, the joint committee shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the joint

committee shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that contains all of the required information. If any person who receives a notice under this division fails to file a registration statement or such an amended registration statement within this fifteen-day period, the joint committee shall ~~notify the attorney general, who may take appropriate action as authorized by section 121.69 of the Revised Code~~ assess a late filing fee equal to twelve dollars and fifty cents per day, up to a maximum fee of one hundred dollars, upon that person. The joint committee may waive the late filing fee for good cause shown.

~~If the joint committee notifies the attorney general pursuant to this division, the joint committee shall also notify each elected executive official and the director of each department created under section 121.02 of the Revised Code of the pending investigation.~~

(H) On or before the fifteenth day of March of each year, the joint committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

(I) If an employer who engages an executive agency lobbyist is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the employer or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.

(J) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person and ~~his~~ the person's employer are in compliance with this section.

Sec. 122.011. (A) The department of development shall develop and promote plans and programs designed to assure that state resources are efficiently used, economic growth is properly balanced, community growth is developed in an orderly manner, and local governments are coordinated with each other and the state, and for such purposes may do all of the following:

(1) Serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to persons or local governments, as provided in section 122.07 of the Revised Code;

(2) Prepare and activate plans for the retention, development, expansion, and use of the resources and commerce of the state, as provided in section 122.04 of the Revised Code;

(3) Assist and cooperate with federal, state, and local governments and agencies of federal, state, and local governments in the coordination of programs to carry out the functions and duties of the department;

(4) Encourage and foster research and development activities, conduct studies related to the solution of community problems, and develop recommendations for administrative or legislative actions, as provided in section 122.03 of the Revised Code;

(5) Serve as the economic and community development planning agency, which shall prepare and recommend plans and programs for the orderly growth and development of this state and which shall provide planning assistance, as provided in section 122.06 of the Revised Code;

(6) Cooperate with and provide technical assistance to state departments, political subdivisions, regional and local planning commissions, tourist associations, councils of government, community development groups, community action agencies, and other appropriate organizations for carrying out the functions and duties of the department or for the solution of community problems;

(7) Coordinate the activities of state agencies that have an impact on carrying out the functions and duties of the department;

(8) Encourage and assist the efforts of and cooperate with local governments to develop mutual and cooperative solutions to their common problems that relate to carrying out the purposes of this section;

(9) Study existing structure, operations, and financing of regional or local government and those state activities that involve significant relations with regional or local governmental units, recommend to the governor and to the general assembly such changes in these provisions and activities as will improve the operations of regional or local government, and conduct other studies of legal provisions that affect problems related to carrying out the purposes of this section;

(10) Appoint, with the approval of the governor, technical and other advisory councils as it considers appropriate, as provided in section 122.09 of the Revised Code;

(11) Create and operate a division of community development to develop and administer programs and activities that are authorized by federal statute or the Revised Code;

(12) Until ~~July 1, 2003~~ October 15, 2005, establish fees and charges, in consultation with the director of agriculture, for purchasing loans from financial institutions and providing loan guarantees under the family farm loan program created under sections 901.80 to 901.83 of the Revised Code;

(13) Provide loan servicing for the loans purchased and loan guarantees

provided under section 901.80 of the Revised Code as that section existed prior to ~~July 1, 2003~~ October 15, 2005;

(14) Until ~~July 1, 2003~~ October 15, 2005, and upon approval by the controlling board under division (A)(3) of section 901.82 of the Revised Code of the release of money to be used for purchasing a loan or providing a loan guarantee, request the release of that money in accordance with division (B) of section 166.03 of the Revised Code for use for the purposes of the fund created by section 166.031 of the Revised Code.

(B) The director of development may request the attorney general to, and the attorney general, in accordance with section 109.02 of the Revised Code, shall bring a civil action in any court of competent jurisdiction. The director may be sued in the director's official capacity, in connection with this chapter, in accordance with Chapter 2743. of the Revised Code.

Sec. 122.04. The department of development shall do the following:

(A) Maintain a continuing evaluation of the sources available for the retention, development, or expansion of industrial and commercial facilities in this state through both public and private agencies;

(B) Assist public and private agencies in obtaining information necessary to evaluate the desirability of the retention, construction, or expansion of industrial and commercial facilities in the state;

(C) Facilitate contracts between community improvement corporations organized under Chapter 1724. of the Revised Code or Ohio development corporations organized under Chapter 1726. of the Revised Code and industrial and commercial concerns seeking to locate or expand in ~~Ohio~~ the state;

(D) Upon request, consult with public agencies or authorities in the preparation of studies of human and economic needs or advantages relating to economic and community development;

(E) Encourage, promote, and assist trade and commerce between this state and foreign nations;

(F) Promote and encourage persons to visit and travel within this state;

(G) Maintain membership in the national association of state development agencies;

(H) Assist in the development of facilities and technologies that will lead to increased, environmentally sound use of Ohio coal;

(I) Promote economic growth in the state.

Sec. 122.041. The director of development shall do all of the following with regard to the encouraging diversity, growth, and equity program created under section 123.152 of the Revised Code:

(A) Conduct outreach, marketing, and recruitment of EDGE business

enterprises, as defined in that section:

(B) Provide assistance to the department of administrative services, as needed, to certify new EDGE business enterprises and to train appropriate state agency staff;

(C) Provide business development services to EDGE business enterprises in the developmental and transitional stages of the program, including financial and bonding assistance and management and technical assistance;

(D) Develop a mentor program to bring businesses into a working relationship with EDGE business enterprises in a way that commercially benefits both entities and serves the purpose of the EDGE program;

(E) Not later than December 31, 2003, prepare and submit to the governor a detailed report outlining and evaluating the progress made in implementing the encouraging diversity, growth, and equity program;

(F) Establish processes by which an EDGE business enterprise may apply for contract assistance, financial and bonding assistance, management and technical assistance, and mentoring opportunities.

Sec. 122.08. (A) There is hereby created within the department of development an office to be known as the office of small business. The office shall be under the supervision of a manager appointed by the director of development.

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

(1) Act as liaison between the small business community and state governmental agencies;

(2) Furnish information and technical assistance to persons and small businesses concerning the establishment and maintenance of a small business, and concerning state laws and rules relevant to the operation of a small business. In conjunction with these duties, the office shall keep a record of all state agency rules affecting individuals, small businesses, or small organizations, as defined in section 121.24 of the Revised Code, and may testify before the joint committee on agency rule review concerning any proposed rule affecting individuals, small businesses, or small organizations.

(3) Prepare and publish the small business register under section 122.081 of the Revised Code;

(4) Receive complaints from small businesses concerning governmental activity, compile and analyze those complaints, and periodically make recommendations to the governor and the general assembly on changes in state laws or agency rules needed to eliminate burdensome and unproductive governmental regulation to improve the economic climate within which

small businesses operate;

(5) Receive complaints or questions from small businesses and direct ~~such~~ those businesses to the appropriate governmental agency. If, within a reasonable period of time, a complaint is not satisfactorily resolved or a question is not satisfactorily answered, the office shall, on behalf of the small business, make every effort to secure a satisfactory result. For this purpose, the office may consult with any state governmental agency and may make any suggestion or request that seems appropriate.

(6) Utilize, to the maximum extent possible, the printed and electronic media to disseminate information of current concern and interest to the small business community and to make known to small businesses the services available through the office. The office shall publish such books, pamphlets, and other printed materials, and shall participate in such trade association meetings, conventions, fairs, and other meetings involving the small business community, as the manager considers appropriate.

(7) Prepare for inclusion in the department of development's annual report to the governor and general assembly, a description of the activities of the office and a report of the number of rules affecting individuals, small businesses, and small organizations that were filed with the office under division (B)(2) of section 121.24 of the Revised Code, during the preceding calendar year;

(8) Operate the Ohio ~~one-stop-business-permit-center~~ first-stop business connection to assist individuals in identifying and preparing applications for business licenses, permits, and certificates and to serve as the central public distributor for all forms, applications, and other information related to business licensing. Each state agency, board, and commission shall cooperate in providing assistance, information, and materials to enable the ~~center~~ connection to perform its duties under this division ~~(B)(8) of this section.~~

(C) The office ~~of small business~~ may, upon the request of a state agency, assist the agency with the preparation of any rule that will affect individuals, small businesses, or small organizations.

(D) The director of development shall assign ~~such~~ employees and furnish ~~such~~ equipment and supplies to the office as the director considers necessary for the proper performance of the duties assigned to the office.

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

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

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

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

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

Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. "New employee" does not include any employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting, or any employee of the taxpayer for which the taxpayer has been granted a certificate under division (B) of section 5709.66 of the Revised Code. "New employee" also does not include an employee of the taxpayer who is employed in an employment position that was relocated to a project from other operations of the taxpayer in this state or from operations of a related member of the taxpayer in this state. In addition, "new employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or indirect ownership interest of at least five per cent in the profits, capital, or value of the taxpayer. Such ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.

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

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

section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(F) Projects that consist solely of point-of-final-purchase retail facilities

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

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

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

(I) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its

owners. A credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

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

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

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

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

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under Chapter 5733. or 5747. of the Revised Code do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

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

preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

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

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

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

the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section and for at least one hundred eighty days during each taxable year with respect to which the credit is granted.

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

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

(6) "Applicable corporation" means a corporation satisfying all of the following:

(a)(i) For the entire taxable year immediately preceding the tax year, the corporation develops software applications primarily to provide telecommunication billing and information services through outsourcing or licensing to domestic or international customers.

(ii) Sales and licensing of software generated at least six hundred million dollars in revenue during the taxable year immediately preceding the tax year the corporation is first entitled to claim the credit provided under division (B) of this section.

(b) For the entire taxable year immediately preceding the tax year, the corporation or one or more of its related members provides customer or employee care and technical support for clients through one or more contact centers within this state, and the corporation and its related members together have a daily average, based on a three hundred sixty-five day year, of at least five hundred thousand successful customer contacts through one or more of their contact centers, wherever located.

(c) The corporation is eligible for the credit under division (B) of this section for the tax year.

(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly.

(8) "Successful customer contact" means a contact with an end user via telephone, including interactive voice recognition or similar means, where the contact culminates in a conversation or connection other than a busy signal or equipment busy.

(9) "Telecommunications" means all forms of telecommunications service as defined in section 5739.01 of the Revised Code, and includes services in wireless, wireline, cable, broadband, internet protocol, and satellite.

(10)(a) "Applicable difference" means the difference between the tax for the tax year under Chapter 5733. of the Revised Code applying the law in effect for that tax year, and the tax for that tax year if section 5733.042 of the Revised Code applied as that section existed on the effective date of its

amendment by Am. Sub. H.B. 215 of the 122nd general assembly, subject to division (A)(10)(b) of this section.

(b) If the tax rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year is less than eight and one-half per cent, the tax calculated under division (A)(10)(a) of this section shall be computed by substituting a tax rate of eight and one-half per cent for the rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year.

(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to ~~ten~~ fifteen taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the agreement.

The credit computed under this division is in addition to any credit allowed under division (M) of this section.

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

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development, each of whom shall review the application to determine the economic

impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority. The authority shall make no agreements under this section after June 30, 2007.

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

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

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

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

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

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

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, and the number of full-time employment positions at the project site.

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

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

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

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

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

this section.

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

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

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

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

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

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

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

with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

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

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

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

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(4) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

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

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

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

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under Chapter 5733. or 5747. of the Revised Code do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

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

agreement.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(M)(1) A nonrefundable credit shall be allowed to an applicable corporation and its related members in an amount equal to the applicable difference. The credit is in addition to the credit granted to the corporation or related members under division (B) of this section. The credit is subject to divisions (B) to (E) and division (J) of this section.

(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section.

Sec. 122.25. (A) In administering the program established under section 122.24 of the Revised Code, the director of development shall do all of the following:

(1) Annually designate, by the first day of January of each year, the entities that constitute the eligible areas in this state as defined in section 122.23 of the Revised Code;

(2) Inform local governments and others in the state of the availability of the program and financial assistance established under sections 122.23 to

122.27 of the Revised Code;

(3) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the thirtieth day of June of each year on the activities carried out under the program during the preceding calendar year. The report shall include the number of loans made that year and the amount and recipient of each loan.

(4) Work in conjunction with conventional lending institutions, local revolving loan funds, private investors, and other private and public financing sources to provide loans or loan guarantees to eligible applicants;

(5) Establish fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions for loans and loan guarantees provided under the loan program created by section 122.24 of the Revised Code;

(6) Require each applicant to demonstrate the suitability of any site for the assistance sought; that the site has been surveyed, has adequate or available utilities, and that there are no zoning restrictions, environmental regulations, or other matters impairing the use of the site for the purpose intended;

(7) Require each applicant to provide a marketing plan and management strategy for the project;

(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(a) Forms and procedures by which eligible applicants may apply for assistance;

(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;

(c) Reporting requirements and monitoring procedures;

(d) Guidelines regarding situations in which industrial parks would be considered to compete against one another for the purposes of division (B)(2) of section 122.27 of the Revised Code;

(e) Any other rules necessary to implement and administer the program created by section 122.24 of the Revised Code.

(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements governing the use of any industrial park site receiving assistance under section 122.24 of the Revised Code, such that a certain portion of the site must be used for manufacturing, distribution, high technology, research and development, or other businesses wherein a majority of the product or service produced is exported out of the state.

(C) As a condition to receiving assistance under section 122.24 of the Revised Code, and except as provided in division (D) of this section, an applicant must agree, for a period of five years, not to permit the use of a site that is developed or improved with such assistance to cause the relocation of jobs to that site from elsewhere in Ohio.

(D) A site developed or improved with assistance under section 122.24 of the Revised Code may be the site of jobs relocated from elsewhere in Ohio if the director of development does all of the following:

(1) Makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(2) Provides a copy of the determination required by division (D)(1) of this section to the members of the general assembly whose legislative districts include the site from which the jobs would be relocated, ~~and to the joint legislative committee on tax incentives;~~

(3) Determines that the governing body of the area from which the jobs would be relocated has been notified in writing by the relocating company of the possible relocation.

(E) The director of development must obtain the approval of the controlling board for any loan or loan guarantee provided under sections 122.23 to 122.27 of the Revised Code.

Sec. 122.651. (A) There is hereby created the clean Ohio council consisting of the director of development or the director's designee, the director of environmental protection or the director's designee, the lieutenant governor or the lieutenant governor's designee, the director of the Ohio public works commission as a nonvoting, ex officio member, one member of the majority party of the senate and one member of the minority party of the senate to be appointed by the president of the senate, one member of the majority party of the house of representatives and one member of the minority party of the house of representatives to be appointed by the speaker of the house of representatives, and seven members to be appointed by the governor with the advice and consent of the senate. Of the members appointed by the governor, one shall represent the interests of counties, one shall represent the interests of townships, one shall represent the interests of municipal corporations, two shall represent the interests of business and development, and two shall represent statewide environmental advocacy organizations. The members appointed by the governor shall reflect the demographic and economic diversity of the population of the state. Additionally, the governor's appointments shall represent all areas of the

state. All appointments to the council shall be made not later than one hundred twenty days after July 26, 2001.

(B) The members appointed by the president of the senate and speaker of the house of representatives shall serve at the pleasure of their appointing authorities. Of the initial members appointed by the governor to the clean Ohio council, four shall be appointed for two years and three shall be appointed for one year. Thereafter, terms of office for members appointed by the governor shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each of those members shall hold office from the date of appointment until the end of the term for which the member is appointed.

Members may be reappointed. Vacancies shall be filled in the same manner as provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The governor may remove a member appointed by the governor for misfeasance, nonfeasance, or malfeasance in office.

(C) ~~The director of development~~ governor shall appoint a member of the clean Ohio council to serve as the chairperson of the clean Ohio council. The director of development shall serve as the vice-chairperson of the council unless appointed chairperson. If the director is appointed chairperson, the council annually shall select from among its members a vice-chairperson to serve while the director is chairperson. The council annually shall select from among its members ~~a vice-chairperson and~~ a secretary to keep a record of its proceedings. A majority vote of a quorum of the members of the council is necessary to take action on any matter. The council may adopt bylaws governing its operation, including bylaws that establish the frequency of meetings, procedures for reviewing eligible projects under sections 122.65 to 122.658 of the Revised Code and policies and requirements established under section 122.657 of the Revised Code, and other necessary procedures.

(D) Members of the clean Ohio council shall be deemed to be public officials or officers only for the purposes of section 9.86 and Chapters 102. and 2921. of the Revised Code. Serving as a member of the clean Ohio council does not constitute holding a public office or position of employment so as to constitute grounds for removal of public officers or employees serving as members of the council from their offices or positions

of employment. Members of the council shall file with the Ohio ethics commission the disclosure statement described in division (A) of section 102.02 of the Revised Code on the form prescribed by the commission and be subject to divisions (C) and (D) of that section. Members of the council shall serve without compensation for attending council meetings, but shall receive their actual and necessary traveling and other expenses incurred in the performance of their official duties in accordance with the rules of the office of budget and management.

(E) Members appointed by the governor to represent the interests of counties, townships, and municipal corporations do not have a conflict of interest by virtue of their service in the position. For the purposes of this division, "conflict of interest" means the taking of any action as a member of the council that affects a public agency the person serves as an officer or employee.

(F) The department of development shall provide office space for the council. The council shall be assisted in its duties by the staff of the department of development and the environmental protection agency.

(G) Sections 101.82 to 101.87 of the Revised Code do not apply to the clean Ohio council.

Sec. 122.658. (A) The clean Ohio revitalization fund is hereby created in the state treasury. The fund shall consist of moneys credited to it pursuant to section 151.40 of the Revised Code. Moneys in the fund shall be used to make grants or loans for projects that have been approved by the clean Ohio council in accordance with section 122.653 of the Revised Code, except that the council annually shall devote twenty per cent of the net proceeds of obligations deposited in the clean Ohio revitalization fund for the purposes of section 122.656 of the Revised Code.

Moneys in the clean Ohio revitalization fund may be used to pay reasonable costs incurred by the department of development and the environmental protection agency in administering sections 122.65 to 122.658 of the Revised Code. All investment earnings of the fund shall be credited to the fund. ~~For two years after July 26, 2001, investment~~ Investment earnings credited to the clean Ohio revitalization fund may be used to pay costs incurred by the department of development and the environmental protection agency pursuant to sections 122.65 to 122.658 of the Revised Code.

The department of development shall administer the clean Ohio revitalization fund in accordance with this section, policies and requirements established under section 122.657 of the Revised Code, and the terms of agreements entered into by the council under section 122.653 of the Revised

Code.

(B) Grants awarded and loans made under section 122.653 of the Revised Code shall provide not more than seventy-five per cent of the estimated total cost of a project. A grant or loan to any one project shall not exceed three million dollars. An applicant shall provide at least twenty-five per cent of the estimated total cost of a project. The applicant's share may consist of one or a combination of any of the following:

(1) Payment of the cost of acquiring the property for the purposes of sections 122.65 to 122.658 of the Revised Code;

(2) Payment of the reasonable cost of an assessment at the property;

(3) The reasonable value, as determined by the council, of labor and materials that will be contributed by the applicant in performing the cleanup or remediation;

(4) Moneys received by the applicant in any form for use in performing the cleanup or remediation;

(5) Loans secured by the applicant for the purpose of the cleanup or remediation of the brownfield.

Costs that were incurred more than two years prior to the submission of an application to the clean Ohio council for the acquisition of property, assessments, and labor and materials shall not be used as part of the applicant's matching share.

(C) The department of development shall not make any payment to an applicant from the clean Ohio revitalization fund to pay costs of the applicant that were not included in an application for a grant or loan under section 122.653 of the Revised Code or that exceed the amount of the estimated total cost of the project included in the application. If, upon completion of a project, the costs of the project are less than the amounts included in the application, the amounts included in the application less the amounts of the actual costs of the project shall be credited to the clean Ohio revitalization fund. However, the amounts credited shall be equivalent in percentage to the percentage of the costs of the project that were to be funded by the grant or loan from the fund.

(D) Grants awarded or loans made under section 122.653 of the Revised Code from the clean Ohio revitalization fund shall be used by an applicant only to pay the costs of the actual cleanup or remediation of a brownfield and shall not be used by an applicant to pay any administrative costs incurred by the applicant. Costs related to the use of a certified professional for purposes of section 122.654 of the Revised Code are not administrative costs and may be paid with moneys from grants awarded or loans made under section 122.653 of the Revised Code.

(E) The portion of net proceeds of obligations devoted under division (A) of this section for the purposes of section 122.656 of the Revised Code shall be used to make grants for assessments, cleanup or remediation of brownfields, and public health projects that have been approved by the director of development under that section. The department of development shall administer section 122.656 of the Revised Code in accordance with this section, policies and requirements established under section 122.657 of the Revised Code, and the terms of agreements entered into by the director under section 122.656 of the Revised Code. The director shall not grant more than twenty-five million dollars for public health projects under section 122.656 of the Revised Code.

(F) Grants awarded under section 122.656 of the Revised Code shall be used by an applicant only to pay the costs of actually conducting an assessment, a cleanup or remediation of a brownfield, or a public health project and shall not be used by an applicant to pay any administrative costs incurred by the applicant. Costs related to the use of a certified professional for purposes of section 122.654 of the Revised Code are not administrative costs and may be paid with moneys from grants awarded under section 122.656 of the Revised Code.

(G)(1) The clean Ohio revitalization revolving loan fund is hereby created in the state treasury. Payments of principal and interest on loans made from the clean Ohio revitalization fund shall be credited to this revolving loan fund, as shall payments of principal and interest on loans made from the revolving loan fund itself. The revolving loan fund's investment earnings shall be credited to it.

(2) The clean Ohio revitalization revolving loan fund shall be used to make loans for the same purposes and subject to the same policies, requirements, criteria, and application procedures as loans made from the clean Ohio revitalization fund.

Sec. 122.87. As used in sections 122.87 to ~~122.89~~ 122.90 of the Revised Code:

(A) "Surety company" means a company that is authorized by the department of insurance to issue bonds as surety.

(B) "Minority business" means any of the following occupations:

- (1) Minority construction contractor;
- (2) Minority seller;
- (3) Minority service vendor.

(C) "Minority construction contractor" means a person who is both a construction contractor and an owner of a minority business enterprise certified under division (B) of section 123.151 of the Revised Code.

(D) "Minority seller" means a person who is both a seller of goods and an owner of a minority business enterprise listed on the special minority business enterprise bid notification list under division (B) of section 125.08 of the Revised Code.

(E) "Minority service vendor" means a person who is both a vendor of services and an owner of a minority business enterprise listed on the special minority business enterprise bid notification list under division (B) of section 125.08 of the Revised Code.

(F) "Minority business enterprise" has the meaning given in section 122.71 of the Revised Code.

(G) "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the director of administrative services under section 123.152 of the Revised Code.

Sec. 122.88. (A) There is hereby created in the state treasury the minority business bonding fund, consisting of moneys deposited or credited to it pursuant to section 169.05 of the Revised Code; all grants, gifts, and contributions received pursuant to division (B)(9) of section 122.74 of the Revised Code; all moneys recovered following defaults; and any other moneys obtained by the director of development for the purposes of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code. The fund shall be administered by the director. Moneys in the fund shall be held in trust for the purposes of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code.

(B) Any claims against the state arising from defaults shall be payable from the minority business bonding program administrative and loss reserve fund as provided in division (C) of this section or from the minority business bonding fund. Nothing in sections 122.87 to ~~122.89~~ 122.90 of the Revised Code grants or pledges to any obligee or other person any state moneys other than the moneys in the minority business bonding program administrative and loss reserve fund or the minority business bonding fund, or moneys available to the minority business bonding fund upon request of the director in accordance with division (B) of section 169.05 of the Revised Code.

(C) There is hereby created in the state treasury the minority business bonding program administrative and loss reserve fund, consisting of all premiums charged and collected in accordance with section 122.89 of the Revised Code and any interest income earned from the moneys in the minority business bonding fund. All expenses of the director and the minority development financing advisory board in carrying out the purposes

of sections 122.87 to ~~122.89~~ 122.90 of the Revised Code shall be paid from the minority business bonding program administrative and loss reserve fund.

Any moneys to the credit of the minority business bonding program administrative and loss reserve fund in excess of the amount necessary to fund the appropriation authority for the minority business bonding program administrative and loss reserve fund shall be held as a loss reserve to pay claims arising from defaults on surety bonds underwritten in accordance with section 122.89 of the Revised Code or guaranteed in accordance with section 122.90 of the Revised Code. If the balance of funds in the minority business bonding program administrative and loss reserve fund is insufficient to pay a claim against the state arising from default, then such claim shall be payable from the minority business bonding fund.

Sec. 122.90. (A) The director of development may guarantee bonds executed by sureties for minority businesses and EDGE business enterprises certified under section 123.152 of the Revised Code as principals on contracts with the state, any political subdivision or instrumentality, or any person as the obligee. The director, as guarantor, may exercise all the rights and powers of a company authorized by the department of insurance to guarantee bonds under Chapter 3929. of the Revised Code but otherwise is not subject to any laws related to a guaranty company under Title XXXIX of the Revised Code nor to any rules of the department of insurance.

(B) The director shall adopt rules under Chapter 119. of the Revised Code to establish procedures for the application for bond guarantees and the review and approval of applications for bond guarantees submitted by sureties that execute bonds eligible for guarantees under division (A) of this section.

(C) In accordance with rules adopted pursuant to this section, the director may guarantee up to ninety per cent of the loss incurred and paid by sureties on bonds guaranteed under division (A) of this section.

(D) The penal sum amounts of all outstanding guarantees made by the director under this section shall not exceed three times the difference between the amount of moneys in the minority business bonding fund and available to the fund under division (B) of section 169.05 of the Revised Code and the amount of all outstanding bonds issued by the director in accordance with division (A) of section 122.89 of the Revised Code.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code, and as provided elsewhere by law, shall exercise the following powers:

(1) To prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of

materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the department. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which that section applies nor affect or alter the existing powers of the director of transportation.

(2) To have general supervision over the construction of any projects, improvements, or public buildings constructed for a state agency and over the inspection of materials previous to their incorporation into those projects, improvements, or buildings;

(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, mental retardation and developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, and the boards of trustees of such institutions, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;

(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency;

(7) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(8) To procure, by lease, storage accommodations for a state agency;

(9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and provided that the director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.77 of the Revised Code.

(10) To lease office space in buildings for the use of a state agency;

(11) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(12) To exercise general custodial care of all real property of the state;

(13) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(14) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials, and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and

shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. The department shall adopt such rules as are necessary to give effect to this section. The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(15) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by H.B. 95 of the 125th general assembly;

(16) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a

lease if it finds all of the following:

(a) The best interests of the state will be promoted by entering into a lease with the developer;

(b) The development plans are satisfactory;

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(17) To lease to any person any tract of land owned by the state and under the control of the department, or any part of such a tract, for the purpose of drilling for or the pooling of oil or gas. Such a lease shall be granted for a period not exceeding forty years, with the full power to contract for, determine the conditions governing, and specify the amount the state shall receive for the purposes specified in the lease, and shall be prepared as in other cases.

(18) Biennially implement, by state agency location, a census of agency employees assigned space;

(19) Require each state agency to categorize periodically the use of space allotted to the agency between office space, common areas, storage space, and other uses and report its findings to the department;

(20) Create and update periodically a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(21) Conduct periodically a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(22) Assess periodically the alternatives associated with consolidating the commercial leases for buildings located in Columbus;

(23) Commission a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the rehabilitation services commission, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health, mental retardation and developmental disabilities, and rehabilitation and correction, and buildings of educational and benevolent institutions under the management and control of boards of trustees, are not subject to the control and jurisdiction of the department of administrative

services.

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

Sec. 123.152. (A) As used in this section, "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the director of administrative services under this section of the Revised Code.

(B) The director of administrative services shall establish a business assistance program known as the encouraging diversity, growth, and equity program and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program and that do all of the following:

(1) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture may apply for certification as an EDGE business enterprise;

(2) Establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code.

(a) Goals established under division (B)(2) of this section shall be based on a percentage level of participation and a percentage of contractor availability.

(b) Goals established under division (B)(2) of this section shall be applied at the contract level, relative to an overall dollar goal for each state agency, in accordance with the following certification categories: construction, architecture, and engineering; professional services; goods and services; and information technology services.

(3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;

(b) Social disadvantage based on any of the following:

(i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of

American society, location in an area of high unemployment;

(ii) Some other demonstration of personal disadvantage not common to other small businesses;

(iii) By business location in a qualified census tract.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.

(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;

(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;

(6) Establish a point system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;

(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;

(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;

(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;

(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;

(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;

(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies.

(C) Not later than December 31, 2003, the director of administrative services shall prepare a detailed report to the governor outlining and evaluating the progress made in implementing the encouraging diversity, growth, and equity program.

Sec. 124.03. The state personnel board of review shall exercise the following powers and perform the following duties:

(A) Hear appeals, as provided by law, of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division (D) of section 124.14 of the Revised Code. As used in this division, "discharge" includes disability separations. ~~The~~

The board may affirm, disaffirm, or modify the decisions of the appointing authorities or the director, as the case may be, and its decision is final. The board's decisions shall be consistent with the applicable classification specifications. ~~The~~

The board shall not be deprived of jurisdiction to hear any appeal due to the failure of an appointing authority to file its decision with the board. Any final decision of an appointing authority or of the director not filed in the manner provided in this chapter shall be disaffirmed. ~~The~~

The board may place an exempt employee, as defined in section 124.152 of the Revised Code, into a bargaining unit classification, if the board determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, such placements are at the board's discretion.

In any hearing before the board, including any hearing at which a record is taken that may be the basis of an appeal to a court, an employee may be represented by a person permitted to practice before the board who is not an attorney at law ~~so~~ as long as the person does not receive any compensation from the employee for ~~such~~ the representation.

(B) Hear appeals, as provided by law, of appointing authorities from final decisions of the director relative to the classification or reclassification of any position in the classified state service under the jurisdiction of ~~such~~ that appointing authority. The board may affirm, disaffirm, or modify the decisions of the director, and its decision is final. The board's decisions shall be consistent with the applicable classification specifications.

(C) Exercise the authority provided by section 124.40 of the Revised Code, for appointment, removal, and supervision of municipal and civil service township civil service commissions;

(D) Appoint a secretary, referees, examiners, and whatever other employees are necessary in the exercise of its powers and performance of its

duties and functions. The board shall determine appropriate education and experience requirements for its secretary, referees, examiners, and other employees and shall prescribe their duties. A referee or examiner does not need to have been admitted to the practice of law.

(E) Maintain a journal ~~which~~ that shall be open to public inspection, in which it shall keep a record of all of its proceedings and of the vote of each of its members upon every action taken by it;

(F) Adopt rules in accordance with Chapter 119. of the Revised Code relating to the procedure of the board in administering the laws ~~which~~ it has the authority or duty to administer and for the purpose of invoking the jurisdiction of the board in hearing appeals of appointing authorities and employees in matters set forth in divisions (A) and (B) of this section;

(G) Subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to any matter ~~which~~ it has authority to investigate, inquire into, or hear in the same manner and to the same extent as provided by division (G) of section 124.09 of the Revised Code. All witness fees shall be paid in the manner set forth in that division.

(H) The board shall be funded by general revenue fund appropriations. All moneys received by the board for copies of documents, rule books, and transcriptions shall be paid into the state treasury to the credit of the transcript and other documents fund, which is hereby created to defray the cost of ~~furnishing or making available such copies, rule books, and transcriptions~~ producing an administrative record.

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

Schedule B

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

	Annually	14289.60	14768.00		
		Step 1	Step 2	Step 3	Step 4
25	Hourly	6.31	6.52	6.75	6.99
	Annually	13124.80	13561.60	14040.00	14539.20
		Step 5	Step 6		
	Hourly	7.23	7.41		
	Annually	15038.40	15412.80		
		Step 1	Step 2	Step 3	Step 4
26	Hourly	6.63	6.87	7.10	7.32
	Annually	13790.40	14289.60	14768.00	15225.60
		Step 5	Step 6		
	Hourly	7.53	7.77		
	Annually	15662.40	16161.60		
		Step 1	Step 2	Step 3	Step 4
27	Hourly	6.99	7.23	7.41	7.64
	Annually	14534.20	15038.40	15412.80	15891.20
		Step 5	Step 6	Step 7	
	Hourly	7.88	8.15	8.46	
	Annually	16390.40	16952.00	17596.80	
		Step 1	Step 2	Step 3	Step 4
28	Hourly	7.41	7.64	7.88	8.15
	Annually	15412.80	15891.20	16390.40	16952.00
		Step 5	Step 6	Step 7	
	Hourly	8.46	8.79	9.15	
	Annually	17596.80	18283.20	19032.00	
		Step 1	Step 2	Step 3	Step 4
29	Hourly	7.88	8.15	8.46	8.79
	Annually	16390.40	16952.00	17596.80	18283.20
		Step 5	Step 6	Step 7	
	Hourly	9.15	9.58	10.01	
	Annually	19032.00	19926.40	20820.80	
		Step 1	Step 2	Step 3	Step 4
30	Hourly	8.46	8.79	9.15	9.58
	Annually	17596.80	18283.20	19032.00	19926.40
		Step 5	Step 6	Step 7	
	Hourly	10.01	10.46	10.99	
	Annually	20820.80	21756.80	22859.20	
		Step 1	Step 2	Step 3	Step 4
31	Hourly	9.15	9.58	10.01	10.46
	Annually	19032.00	19962.40	20820.80	21756.80

		Step 5	Step 6	Step 7	
	Hourly	10.99	11.52	12.09	
	Annually	22859.20	23961.60	25147.20	
		Step 1	Step 2	Step 3	Step 4
32	Hourly	10.01	10.46	10.99	11.52
	Annually	20820.80	21756.80	22859.20	23961.60
		Step 5	Step 6	Step 7	Step 8
	Hourly	12.09	12.68	13.29	13.94
	Annually	25147.20	26374.40	27643.20	28995.20
		Step 1	Step 2	Step 3	Step 4
33	Hourly	10.99	11.52	12.09	12.68
	Annually	22859.20	23961.60	25147.20	26374.40
		Step 5	Step 6	Step 7	Step 8
	Hourly	13.29	13.94	14.63	15.35
	Annually	27643.20	28995.20	30430.40	31928.00
		Step 1	Step 2	Step 3	Step 4
34	Hourly	12.09	12.68	13.29	13.94
	Annually	25147.20	26374.40	27643.20	28995.20
		Step 5	Step 6	Step 7	Step 8
	Hourly	14.63	15.35	16.11	16.91
	Annually	30430.40	31928.00	33508.80	35172.80
		Step 1	Step 2	Step 3	Step 4
35	Hourly	13.29	13.94	14.63	15.35
	Annually	27643.20	28995.20	30430.40	31928.00
		Step 5	Step 6	Step 7	Step 8
	Hourly	16.11	16.91	17.73	18.62
	Annually	33508.80	35172.80	36878.40	38729.60
		Step 1	Step 2	Step 3	Step 4
36	Hourly	14.63	15.35	16.11	16.91
	Annually	30430.40	31928.00	33508.80	35172.80
		Step 5	Step 6	Step 7	Step 8
	Hourly	17.73	18.62	19.54	20.51
	Annually	36878.40	38729.60	40643.20	42660.80
Schedule C					

Pay Range and Values

Range	Minimum	Maximum
41 Hourly	10.44	15.72
Annually	21715.20	32697.60
42 Hourly	11.51	17.35
Annually	23940.80	36088.00

43 Hourly	12.68	19.12
Annually	26374.40	39769.60
44 Hourly	13.99	20.87
Annually	29099.20	43409.60
45 Hourly	15.44	22.80
Annually	32115.20	47424.00
46 Hourly	17.01	24.90
Annually	35380.80	51792.00
47 Hourly	18.75	27.18
Annually	39000.00	56534.40
48 Hourly	20.67	29.69
Annually	42993.60	61755.20
49 Hourly	22.80	32.06
Annually	47424.00	66684.80

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

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

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

The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover state employees and determine whether certain benefits or payments provided to state employees covered by those agreements should also be provided to employees who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division (B)(2) or (4) of section 124.14 of the Revised Code. On completing the review, the director of administrative services, with the

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

As used in this division, "payment or benefit already provided by law" includes, but is not limited to, bereavement, personal, vacation, administrative, and sick leave, disability benefits, holiday pay, and pay supplements provided under the Revised Code, but does not include wages or salary.

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

the classified service, or if an employee in the classified service is appointed to a position in the unclassified service, the employee's salary or wage in the new position shall be determined in the same manner as if the employee were an employee in the classified service. When an employee in the unclassified service who is not eligible for step increases is appointed to a classification in the classified service under which step increases are provided, future step increases shall be based on the date on which the employee last received a pay increase. If the employee has not received an increase during the previous year, the date of the appointment to the classified service shall be used to determine the employee's annual step advancement eligibility date. In reassigning any employee to a classification resulting in a pay range increase or to a new pay range as a result of a promotion, an increase pay range adjustment, or other classification change resulting in a pay range increase, the director shall assign such employee to the step in the new pay range that will provide an increase of approximately four per cent if the new pay range can accommodate the increase. When an employee is being assigned to a classification or new pay range as the result of a class plan change, if the employee has completed a probationary period, the employee shall be placed in a step no lower than step two of the new pay range. If the employee has not completed a probationary period, the employee may be placed in step one of the new pay range. Such new salary or wage shall become effective on such date as the director determines.

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

(G) ~~Each~~ (1) Except as provided in division (G)(2) of this section, each state employee paid under schedule B of this section or under schedule E-1 of section 124.152 of the Revised Code shall be eligible for advancement to succeeding steps in the range for the employee's class according to the schedule established in this division. Beginning on the first day of the pay period within which the employee completes the prescribed probationary

period in the employee's classification with the state, each employee shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for the employee's class or grade.

Each employee paid under schedule E-1 of section 124.152 of the Revised Code shall be eligible to advance to the next higher step until the employee reaches step six, if the employee has maintained satisfactory performance in accordance with criteria established by the employee's appointing authority. Those step ~~increases~~ advancements shall not occur more frequently than once in any twelve-month period. An employee only may advance to step seven upon performing at an exemplary level as determined in the employee's performance evaluation. An employee's advancement to step seven is at the discretion of the employee's appointing authority. An employee may not appeal the denial of advancement to step seven to the state personnel board of review.

When an employee is promoted or reassigned to a higher pay range, the employee's step indicator shall return to "0" or be adjusted to account for a probationary period, as appropriate. Step advancement shall not be affected by demotion. A promoted employee shall advance to the next higher step of the pay range on the first day of the pay period in which the required probationary period is completed. Step advancement shall become effective at the beginning of the pay period within which the employee attains the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

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

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of this section, there shall be a moratorium on step advancements under division (G)(1) of this section from the pay period beginning June 29, 2003, through the pay period ending June 25, 2005. Step advancements shall resume with the pay period beginning June 26, 2005. Upon the resumption of step advancements, there shall be no retroactive step advancements for the period the moratorium was in effect. The moratorium shall not affect an employee's performance evaluation schedule.

(ii) During the moratorium under division (G)(2)(a)(i) of this section, an employee who is hired or promoted and serves a probationary period in the employee's new position shall advance to the next step in the employee's pay range upon successful completion of the employee's probationary period. Thereafter, the employee is subject to the moratorium.

(b) The moratorium under division (G)(2)(a)(i) of this section shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2003.

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

(I) When an employee is assigned to duty outside this state, the employee may be compensated, upon request of the department head and with the approval of the director of administrative services, at a rate not to exceed fifty per cent in excess of the employee's current base rate for the period of time spent on that duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of that section. An employee paid under this division is eligible to receive a pay supplement under division (L)(6) of section 124.181 of the Revised Code for which the employee qualifies, except that the supplement is not limited to a maximum of five per cent of the employee's regular base salary in a calendar year.

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

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

Sec. 124.152. (A) ~~Beginning on the first day of the pay period that includes July 1, 2000, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:~~

~~Schedule E-1~~

		Pay Ranges and Step Values						
	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1	Hourly	8.15	8.51	8.88	9.27			
	Annually	16952	17701	18470	19282			
2	Hourly	9.88	10.30	10.75	11.23			
	Annually	20550	21424	22360	23358			

3	Hourly	10.35	10.82	11.29	11.79		
	Annually	21528	22506	23483	24523		
4	Hourly	10.87	11.36	11.90	12.43		
	Annually	22610	23629	24752	25854		
5	Hourly	11.41	11.93	12.43	12.98		
	Annually	23733	24814	25854	26998		
6	Hourly	12.02	12.51	13.07	13.60		
	Annually	25002	26021	27186	28288		
7	Hourly	12.76	13.25	13.78	14.26	14.81	
	Annually	26541	27560	28662	29661	30805	
8	Hourly	13.50	14.09	14.71	15.35	16.01	
	Annually	28080	29307	30597	31928	33301	
9	Hourly	14.40	15.14	15.89	16.68	17.53	
	Annually	29952	31491	33051	34694	36462	
10	Hourly	15.54	16.38	17.27	18.25	19.23	
	Annually	32323	34070	35922	37960	39998	
11	Hourly	16.91	17.90	18.94	20.00	21.14	
	Annually	35173	37232	39395	41600	43971	
12	Hourly	18.66	19.70	20.76	21.91	23.13	24.40 25.74
	Annually	38813	40976	43181	45573	48110	50752 53539
13	Hourly	20.56	21.69	22.88	24.11	25.46	26.85 28.33
	Annually	42765	45115	47590	50149	52957	55848 58926
14	Hourly	22.62	23.89	25.18	26.56	28.06	29.61 31.24
	Annually	47050	49691	52374	55245	58365	61589 64979
15	Hourly	24.84	26.23	27.72	29.25	30.86	32.57 34.36
	Annually	51667	54558	57658	60840	64189	67746 71469
16	Hourly	27.39	28.91	30.51	32.21	33.99	35.92 37.90
	Annually	56971	60133	63461	66997	70699	74714 78832
17	Hourly	30.18	31.85	33.63	35.49	37.47	39.56 41.74
	Annually	62774	66248	69950	73819	77938	82285 86819
18	Hourly	33.26	35.10	37.07	39.12	41.28	43.59 45.99
	Annually	69181	73008	77106	81370	85862	90667 95659

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	30.15
	Annually	33758	62712
42	Hourly	17.89	33.31
	Annually	37211	69285
43	Hourly	19.70	36.69
	Annually	40976	76315

44	Hourly	21.73	40.07
	Annually	45198	83346
45	Hourly	24.01	43.75
	Annually	49941	91000
46	Hourly	26.43	47.81
	Annually	54974	99445
47	Hourly	29.14	52.17
	Annually	60611	108514
48	Hourly	32.14	56.94
	Annually	66851	118435
49	Hourly	35.44	61.48
	Annually	73715	127878

(B) ~~Beginning on the first day of the pay period that includes July 1, 2001, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:~~

~~Schedule E-1~~

		Pay Ranges and Step Values						
	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1	Hourly	8.44	8.81	9.19	9.59			
	Annually	17555	18325	19115	19947			
2	Hourly	10.23	10.66	11.13	11.62			
	Annually	21278	22173	23150	24170			
3	Hourly	10.71	11.20	11.69	12.20			
	Annually	22277	23296	24315	25376			
4	Hourly	11.25	11.76	12.32	12.87			
	Annually	23400	24461	25626	26770			
5	Hourly	11.81	12.35	12.87	13.43			
	Annually	24565	25688	26770	27934			
6	Hourly	12.44	12.95	13.53	14.08			
	Annually	25875	26936	28142	29286			
7	Hourly	13.21	13.71	14.26	14.76	15.33		
	Annually	27477	28517	29661	30701	31886		
8	Hourly	13.97	14.58	15.22	15.89	16.57		
	Annually	29058	30326	31658	33051	34466		
9	Hourly	14.90	15.67	16.45	17.26	18.14		
	Annually	30992	32594	34216	35901	37731		
10	Hourly	16.08	16.95	17.87	18.89	19.90		
	Annually	33446	35256	37170	39291	41392		
11	Hourly	17.50	18.53	19.60	20.70	21.88		

	Annually	36400	38542	40768	43056	45510		
12	Hourly	19.31	20.39	21.49	22.68	23.94	25.25	26.64
	Annually	40165	42411	44699	47174	49795	52520	55411
13	Hourly	21.28	22.45	23.68	24.95	26.35	27.79	29.32
	Annually	44262	46696	49254	51896	54808	57803	60986
14	Hourly	23.41	24.73	26.06	27.49	29.04	30.65	32.33
	Annually	48693	51438	54205	57179	60403	63752	67246
15	Hourly	25.71	27.15	28.69	30.27	31.94	33.71	35.56
	Annually	53477	56472	59675	62962	66435	70117	73965
16	Hourly	28.35	29.92	31.58	33.34	35.18	37.18	39.23
	Annually	58968	62234	65686	69347	73174	77334	81598
17	Hourly	31.24	32.96	34.81	36.73	38.78	40.94	43.20
	Annually	64979	68557	72405	76398	80662	85155	89856
18	Hourly	34.42	36.33	38.37	40.49	42.72	45.12	47.60
	Annually	71594	75566	79810	84219	88858	93850	99008

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	31.21
	Annually	33758	64917
42	Hourly	17.89	34.48
	Annually	37211	71718
43	Hourly	19.70	37.97
	Annually	40976	78978
44	Hourly	21.73	41.47
	Annually	45198	86258
45	Hourly	24.01	45.28
	Annually	49941	94182
46	Hourly	26.43	49.48
	Annually	54974	102918
47	Hourly	29.14	54.00
	Annually	60611	112320
48	Hourly	32.14	58.93
	Annually	66851	122574
49	Hourly	35.44	63.63
	Annually	73715	132350

(C) Beginning on the first day of the pay period that includes July 1, 2002, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
1	Range							
	Hourly	8.78	9.16	9.56	9.97			
	Annually	18262	19053	19885	20738			
2	Hourly	10.64	11.09	11.58	12.08			
	Annually	22131	23067	24086	25126			
3	Hourly	11.14	11.65	12.16	12.69			
	Annually	23171	24232	25293	26395			
4	Hourly	11.70	12.23	12.81	13.38			
	Annually	24336	25438	26645	27830			
5	Hourly	12.28	12.84	13.38	13.97			
	Annually	25542	26707	27830	29058			
6	Hourly	12.94	13.47	14.07	14.64			
	Annually	26915	28018	29266	30451			
7	Hourly	13.74	14.26	14.83	15.35	15.94		
	Annually	28579	29661	30846	31928	33155		
8	Hourly	14.53	15.16	15.83	16.53	17.23		
	Annually	30222	31533	32926	34382	35838		
9	Hourly	15.50	16.30	17.11	17.95	18.87		
	Annually	32240	33904	35589	37336	39250		
10	Hourly	16.72	17.63	18.58	19.65	20.70		
	Annually	34778	36670	38646	40872	43056		
11	Hourly	18.20	19.27	20.38	21.53	22.76		
	Annually	37856	40082	42390	44782	47341		
12	Hourly	20.08	21.21	22.35	23.59	24.90	26.26	27.71
	Annually	41766	44117	46488	49067	51792	54621	57637
13	Hourly	22.13	23.35	24.63	25.95	27.40	28.90	30.49
	Annually	46030	48568	51230	53976	56992	60112	63419
14	Hourly	24.35	25.72	27.10	28.59	30.20	31.88	33.62
	Annually	50648	53498	56368	59467	62816	66310	69930
15	Hourly	26.74	28.24	29.84	31.48	33.22	35.06	36.98
	Annually	55619	58739	62067	65478	69098	72925	76918
16	Hourly	29.48	31.12	32.84	34.67	36.59	38.67	40.80
	Annually	61318	64730	68307	72114	76107	80434	84864
17	Hourly	32.49	34.28	36.20	38.20	40.33	42.58	44.93
	Annually	67579	71302	75296	79456	83886	88566	93454
18	Hourly	35.80	37.78	39.90	42.11	44.43	46.92	49.50
	Annually	74464	78582	82992	87589	92414	97594	102960
Schedule E-2								
	Range	Minimum				Maximum		

41	Hourly	16.23	32.46
	Annually	33758	67517
42	Hourly	17.89	35.86
	Annually	37211	74589
43	Hourly	19.70	39.49
	Annually	40976	82139
44	Hourly	21.73	43.13
	Annually	45198	89710
45	Hourly	24.01	47.09
	Annually	49941	97947
46	Hourly	26.43	51.46
	Annually	54974	107037
47	Hourly	29.14	56.16
	Annually	60611	116813
48	Hourly	32.14	61.29
	Annually	66851	127483
49	Hourly	35.44	66.18
	Annually	73715	137654

~~(D)~~(B) Beginning on the first day of the pay period that includes July 1, 2005, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

	<u>Range</u>	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>	<u>Step 7</u>
1	<u>Hourly</u>	<u>9.13</u>	<u>9.53</u>	<u>9.94</u>	<u>10.37</u>			
	<u>Annually</u>	<u>18990</u>	<u>19822</u>	<u>20675</u>	<u>21570</u>			
2	<u>Hourly</u>	<u>11.07</u>	<u>11.53</u>	<u>12.04</u>	<u>12.56</u>			
	<u>Annually</u>	<u>23026</u>	<u>23982</u>	<u>25043</u>	<u>26125</u>			
3	<u>Hourly</u>	<u>11.59</u>	<u>12.12</u>	<u>12.65</u>	<u>13.20</u>			
	<u>Annually</u>	<u>24107</u>	<u>25210</u>	<u>26312</u>	<u>27456</u>			
4	<u>Hourly</u>	<u>12.17</u>	<u>12.72</u>	<u>13.32</u>	<u>13.92</u>			
	<u>Annually</u>	<u>25314</u>	<u>26458</u>	<u>27706</u>	<u>28954</u>			
5	<u>Hourly</u>	<u>12.77</u>	<u>13.35</u>	<u>13.92</u>	<u>14.53</u>			
	<u>Annually</u>	<u>26562</u>	<u>27768</u>	<u>28954</u>	<u>30222</u>			
6	<u>Hourly</u>	<u>13.46</u>	<u>14.01</u>	<u>14.63</u>	<u>15.23</u>			
	<u>Annually</u>	<u>27997</u>	<u>29141</u>	<u>30430</u>	<u>31678</u>			
7	<u>Hourly</u>	<u>14.29</u>	<u>14.83</u>	<u>15.42</u>	<u>15.96</u>	<u>16.58</u>		
	<u>Annually</u>	<u>29723</u>	<u>30846</u>	<u>32074</u>	<u>33197</u>	<u>34486</u>		
8	<u>Hourly</u>	<u>15.11</u>	<u>15.77</u>	<u>16.46</u>	<u>17.19</u>	<u>17.92</u>		

	<u>Annually</u>	<u>31429</u>	<u>32802</u>	<u>34237</u>	<u>35755</u>	<u>37274</u>	
9	<u>Hourly</u>	<u>16.12</u>	<u>16.95</u>	<u>17.79</u>	<u>18.67</u>	<u>19.62</u>	
	<u>Annually</u>	<u>33530</u>	<u>35256</u>	<u>37003</u>	<u>38834</u>	<u>40810</u>	
10	<u>Hourly</u>	<u>17.39</u>	<u>18.34</u>	<u>19.32</u>	<u>20.44</u>	<u>21.53</u>	
	<u>Annually</u>	<u>36171</u>	<u>38147</u>	<u>40186</u>	<u>42515</u>	<u>44782</u>	
11	<u>Hourly</u>	<u>18.93</u>	<u>20.04</u>	<u>21.20</u>	<u>22.39</u>	<u>23.67</u>	
	<u>Annually</u>	<u>39374</u>	<u>41683</u>	<u>44096</u>	<u>46571</u>	<u>49234</u>	
12	<u>Hourly</u>	<u>20.88</u>	<u>22.06</u>	<u>23.24</u>	<u>24.53</u>	<u>25.90</u>	<u>27.31</u>
	<u>Annually</u>	<u>43430</u>	<u>45885</u>	<u>48339</u>	<u>51022</u>	<u>53872</u>	<u>56805</u>
13	<u>Hourly</u>	<u>23.02</u>	<u>24.28</u>	<u>25.62</u>	<u>26.99</u>	<u>28.50</u>	<u>30.06</u>
	<u>Annually</u>	<u>47882</u>	<u>50502</u>	<u>53290</u>	<u>56139</u>	<u>59280</u>	<u>62525</u>
14	<u>Hourly</u>	<u>25.32</u>	<u>26.75</u>	<u>28.18</u>	<u>29.73</u>	<u>31.41</u>	<u>33.16</u>
	<u>Annually</u>	<u>52666</u>	<u>55640</u>	<u>58614</u>	<u>61838</u>	<u>65333</u>	<u>68973</u>
15	<u>Hourly</u>	<u>27.81</u>	<u>29.37</u>	<u>31.03</u>	<u>32.74</u>	<u>34.55</u>	<u>36.46</u>
	<u>Annually</u>	<u>57845</u>	<u>61090</u>	<u>64542</u>	<u>68099</u>	<u>71864</u>	<u>75837</u>
16	<u>Hourly</u>	<u>30.66</u>	<u>32.36</u>	<u>34.15</u>	<u>36.06</u>	<u>38.05</u>	<u>40.22</u>
	<u>Annually</u>	<u>63773</u>	<u>67309</u>	<u>71032</u>	<u>75005</u>	<u>79144</u>	<u>83658</u>
17	<u>Hourly</u>	<u>33.79</u>	<u>35.65</u>	<u>37.65</u>	<u>39.73</u>	<u>41.94</u>	<u>44.28</u>
	<u>Annually</u>	<u>70283</u>	<u>74152</u>	<u>78312</u>	<u>82638</u>	<u>87235</u>	<u>92102</u>
18	<u>Hourly</u>	<u>37.23</u>	<u>39.29</u>	<u>41.50</u>	<u>43.79</u>	<u>46.21</u>	<u>48.80</u>
	<u>Annually</u>	<u>77438</u>	<u>81723</u>	<u>86320</u>	<u>91083</u>	<u>96117</u>	<u>101504</u>

Schedule E-2

	<u>Range</u>	<u>Minimum</u>	<u>Maximum</u>
41	<u>Hourly</u>	<u>16.23</u>	<u>33.76</u>
	<u>Annually</u>	<u>33758</u>	<u>70221</u>
42	<u>Hourly</u>	<u>17.89</u>	<u>37.29</u>
	<u>Annually</u>	<u>37211</u>	<u>77563</u>
43	<u>Hourly</u>	<u>19.70</u>	<u>41.07</u>
	<u>Annually</u>	<u>40976</u>	<u>85426</u>
44	<u>Hourly</u>	<u>21.73</u>	<u>44.86</u>
	<u>Annually</u>	<u>45198</u>	<u>93309</u>
45	<u>Hourly</u>	<u>24.01</u>	<u>48.97</u>
	<u>Annually</u>	<u>49941</u>	<u>101858</u>
46	<u>Hourly</u>	<u>26.43</u>	<u>53.52</u>
	<u>Annually</u>	<u>54974</u>	<u>111322</u>
47	<u>Hourly</u>	<u>29.14</u>	<u>58.41</u>
	<u>Annually</u>	<u>60611</u>	<u>121493</u>
48	<u>Hourly</u>	<u>32.14</u>	<u>63.74</u>
	<u>Annually</u>	<u>66851</u>	<u>132579</u>
49	<u>Hourly</u>	<u>35.44</u>	<u>68.83</u>

Annually73715143166

(C) As used in this section, "exempt employee" means a permanent full-time or permanent part-time employee paid directly by warrant of the auditor of state whose position is included in the job classification plan established under division (A) of section 124.14 of the Revised Code but who is not considered a public employee for the purposes of Chapter 4117. of the Revised Code. As used in this section, "exempt employee" also includes a permanent full-time or permanent part-time employee of the secretary of state, auditor of state, treasurer of state, or attorney general who has not been placed in an appropriate bargaining unit by the state employment relations board.

Sec. 124.181. (A) Except as provided in division (M) of this section, any employee paid under schedule B of section 124.15 or under schedule E-1 of section 124.152 of the Revised Code is eligible for the pay supplements provided in this section upon application by the appointing authority substantiating the employee's qualifications for the supplement and with the approval of the director of administrative services except as provided in division (E) of this section.

(B) ~~In~~ Except as provided in section 124.183 of the Revised Code, in computing any of the pay supplements provided in this section, the classification salary base shall be the minimum hourly rate of the pay range, provided in section 124.15 or 124.152 of the Revised Code, in which the employee is assigned at the time of computation.

(C) The effective date of any pay supplement, except as provided in section 124.183 of the Revised Code or unless otherwise provided in this section, shall be determined by the director.

(D) The director shall, by rule, establish standards regarding the administration of this section.

(E)(1) Except as otherwise provided in this division, beginning on the first day of the pay period within which the employee completes five years of total service with the state government or any of its political subdivisions, each employee in positions paid under salary schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code shall receive an automatic salary adjustment equivalent to two and one-half per cent of the classification salary base, to the nearest whole cent. Each employee shall receive thereafter an annual adjustment equivalent to one-half of one per cent of the employee's classification salary base, to the nearest whole cent, for each additional year of qualified employment until a maximum of ten per cent of the employee's classification salary base is reached. The granting of longevity adjustments shall not be affected by

promotion, demotion, or other changes in classification held by the employee, nor by any change in pay range for the employee's class. Longevity pay adjustments shall become effective at the beginning of the pay period within which the employee completes the necessary length of service, except that when an employee requests credit for prior service, the effective date of the prior service credit and of any longevity adjustment shall be the first day of the pay period following approval of the credit by the director of administrative services. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any longevity adjustment for the period prior to the director's approval of a prior service credit. Time spent on authorized leave of absence shall be counted for this purpose.

(2) An employee who has retired in accordance with the provisions of any retirement system offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not have prior service with the state or any political subdivision of the state counted for the purpose of determining the amount of the salary adjustment provided under this division.

(3) There shall be a moratorium on employees' receipt under this division of credit for service with the state government or any of its political subdivisions during the period from July 1, 2003, through June 30, 2005. In calculating the number of years of total service under this division, no credit shall be included for service during the moratorium. The moratorium shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2003.

If an employee is exempt from the moratorium, receives credit for a period of service during the moratorium, and takes a position with another entity in the state government or any of its political subdivisions, either during or after the moratorium, and if that entity's employees are or were subject to the moratorium, the employee shall continue to retain the credit. However, if the moratorium is in effect upon the taking of the new position, the employee shall cease receiving additional credit as long as the employee is in the position, until the moratorium expires.

(F) When an exceptional condition exists that creates a temporary or a permanent hazard for one or more positions in a class paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the

Revised Code, a special hazard salary adjustment may be granted for the time the employee is subjected to the hazardous condition. All special hazard conditions shall be identified for each position and incidence from information submitted to the director on an appropriate form provided by the director and categorized into standard conditions of: some unusual hazard not common to the class; considerable unusual hazard not common to the class; and exceptional hazard not common to the class.

(1) A hazardous salary adjustment of five per cent of the employee's classification salary base may be applied in the case of some unusual hazardous condition not common to the class for those hours worked, or a fraction thereof, while the employee was subject to the unusual hazard condition.

(2) A hazardous salary adjustment of seven and one-half per cent of the employee's classification salary base may be applied in the case of some considerable hazardous condition not common to the class for those hours worked, or a fraction thereof, while the employee was subject to the considerable hazard condition.

(3) A hazardous salary adjustment of ten per cent of the employee's classification salary base may be applied in the case of some exceptional hazardous condition not common to the class for those hours worked, or a fraction thereof, when the employee was subject to the exceptional hazard condition.

(4) Each claim for temporary hazard pay shall be submitted as a separate payment and shall be subject to an administrative audit by the director as to the extent and duration of the employee's exposure to the hazardous condition.

(G) When a full-time employee whose salary or wage is paid directly by warrant of the auditor of state and who also is eligible for overtime under the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended, is ordered by the appointing authority to report back to work after termination of the employee's regular work schedule and the employee reports, the employee shall be paid for such time. The employee shall be entitled to four hours at the employee's total rate of pay or overtime compensation for the actual hours worked, whichever is greater. This division does not apply to work that is a continuation of or immediately preceding an employee's regular work schedule.

(H) When a certain position or positions paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code require the ability to speak or write a language other than English, a special pay supplement may be granted to attract bilingual

individuals, to encourage present employees to become proficient in other languages, or to retain qualified bilingual employees. The bilingual pay supplement provided in this division may be granted in the amount of five per cent of the employee's classification salary base for each required foreign language and shall remain in effect as long as the bilingual requirement exists.

(I) The director may establish a shift differential for employees. Such differential shall be paid to employees in positions working in other than the regular or first shift. In those divisions or agencies where only one shift prevails, no shift differential shall be paid regardless of the hours of the day that are worked. The director and the appointing authority shall designate which positions shall be covered by this division.

(J) Whenever an employee is assigned to work in a higher level position for a continuous period of more than two weeks but no more than two years because of a vacancy, the employee's pay may be established at a rate that is approximately four per cent above the employee's current base rate for the period the employee occupies the position, provided that this temporary occupancy is approved by the director. Employees paid under this division shall continue to receive any of the pay supplements due them under other divisions of this section based on the step one base rate for their normal classification.

(K) If a certain position, or positions, within a class paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code are mandated by state or federal law or regulation or other regulatory agency or other certification authority to have special technical certification, registration, or licensing to perform the functions which are under the mandate, a special professional achievement pay supplement may be granted. This special professional achievement pay supplement shall not be granted when all incumbents in all positions in a class require license as provided in the classification description published by the department of administrative services; to licensees where no special or extensive training is required; when certification is granted upon completion of a stipulated term of in-service training; when an appointing authority has required certification; or any other condition prescribed by the director.

(1) Before this supplement may be applied, evidence as to the requirement must be provided by the agency for each position involved, and certification must be received from the director as to the director's concurrence for each of the positions so affected.

(2) The professional achievement pay supplement provided in this division shall be granted in an amount up to ten per cent of the employee's

classification salary base and shall remain in effect as long as the mandate exists.

(L) Those employees assigned to teaching supervisory, principal, assistant principal, or superintendent positions who have attained a higher educational level than a basic bachelor's degree may receive an educational pay supplement to remain in effect as long as the employee's assignment and classification remain the same.

(1) An educational pay supplement of two and one-half per cent of the employee's classification salary base may be applied upon the achievement of a bachelor's degree plus twenty quarter hours of postgraduate work.

(2) An educational pay supplement of an additional five per cent of the employee's classification salary base may be applied upon achievement of a master's degree.

(3) An educational pay supplement of an additional two and one-half per cent of the employee's classification salary base may be applied upon achievement of a master's degree plus thirty quarter hours of postgraduate work.

(4) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a master teacher.

(5) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a special education teacher.

(6) Those employees in teaching supervisory, principal, assistant principal, or superintendent positions who are responsible for specific extracurricular activity programs shall receive overtime pay for those hours worked in excess of their normal schedule, at their straight time hourly rate up to a maximum of five per cent of their regular base salary in any calendar year.

(M)(1) A state agency, board, or commission may establish a supplementary compensation schedule for those licensed physicians employed by the agency, board, or commission in positions requiring a licensed physician. The supplementary compensation schedule, together with the compensation otherwise authorized by this chapter, shall provide for the total compensation for these employees to range appropriately, but not necessarily uniformly, for each classification title requiring a licensed physician, in accordance with a schedule approved by the state controlling board. The individual salary levels recommended for each such physician employed shall be approved by the director. Notwithstanding section 124.11 of the Revised Code, such personnel are in the unclassified civil service.

(2) The director of administrative services may approve supplementary compensation for the director of health, if the director is a licensed physician, in accordance with a supplementary compensation schedule approved under division (M)(1) of this section or in accordance with another supplementary compensation schedule the director of administrative services considers appropriate. The supplementary compensation shall not exceed twenty per cent of the director of health's base rate of pay.

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 117.42, and 131.02 of the Revised Code, the state shall not institute any civil action to recover and shall not seek reimbursement for overpayments made in violation of division (E) of this section or division (C) of section 9.44 of the Revised Code for the period starting after June 24, 1987, and ending on October 31, 1993.

(O) Employees of the office of the treasurer of state who are exempt from collective bargaining coverage may be granted a merit pay supplement of up to one and one-half per cent of their step rate. The rate at which this supplement is granted shall be based on performance standards established by the treasurer of state. Any supplements granted under this division shall be administered on an annual basis.

Sec. 124.183. (A) As used in this section, "active payroll" means when an employee is actively working; on military, worker's compensation, occupational injury, or disability leave; or on an approved leave of absence.

(B) Each permanent employee paid under schedule E-1 of section 124.152 of the Revised Code who was appointed on or before March 6, 2003, and is on the active payroll as of November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based on the annualization of the top step of the pay range that the employee is in on November 14, 2004.

Each permanent employee paid under schedule E-2 of section 124.152 of the Revised Code who was appointed on or before March 6, 2003, and is on the active payroll as of November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based upon the annualization of the maximum hourly rate of the pay range that the employee is in on November 14, 2004.

(C) Each permanent employee who is exempt from collective bargaining, is not covered by division (B) of this section, was appointed on or before March 6, 2003, and is on the active payroll as of November 14, 2004, shall receive a one-time pay supplement. The supplement shall be a two per cent lump sum payment that is based upon the annualization of the base rate of the employee's pay on November 14, 2004.

(D) A part-time employee who is eligible to receive a one-time pay supplement under division (B) or (C) of this section shall have the employee's one-time pay supplement pro-rated based on the number of hours worked in the twenty-six pay periods prior to November 14, 2004.

An employee who is eligible to receive a one-time pay supplement under division (B) or (C) of this section and was on a voluntary leave of absence shall have the employee's one-time pay supplement pro-rated based on the number of hours worked in the twenty-six pay periods prior to November 14, 2004.

(E) A one-time pay supplement under this section shall be paid in the employee's first paycheck in December of 2004.

(F) Notwithstanding any provision of law to the contrary, a one-time pay supplement under this section shall not be subject to withholding for deposit into any state retirement system. Notwithstanding any provision of law to the contrary, a one-time pay supplement under this section shall not be used for calculation purposes in determining an employee's retirement benefits in any state retirement system.

(G)(1) This section does not apply to employees of the general assembly, legislative agencies, the supreme court, or state boards or commissions.

(2) This section does not apply to employees of the secretary of state, the auditor of state, the treasurer of state, or the attorney general unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides that the office's employees should be eligible for the one-time pay supplement and so notifies the director of administrative services in writing on or before July 1, 2004.

Sec. 125.05. Except as provided in division (E) of this section, no state agency shall purchase any supplies or services except as provided in divisions (A) to (C) of this section.

(A) Subject to division (D) of this section, a state agency may, without competitive selection, make any purchase of services that cost fifty thousand dollars or less or any purchase of supplies that cost twenty-five thousand dollars or less. The agency may make the purchase directly or may make the purchase from or through the department of administrative services, whichever the agency determines. The department shall establish written procedures to assist state agencies when they make direct purchases. If the agency makes the purchase directly, it shall make the purchase by a term contract whenever possible.

(B) ~~Subject~~ (1) Except as provided in division (B)(2) of this section and subject to division (D) of this section, a state agency wanting to purchase

services that cost more than fifty thousand dollars or supplies that cost more than twenty-five thousand dollars shall, unless otherwise authorized by law, make the purchase from or through the department. The department shall make the purchase by competitive selection under section 125.07 of the Revised Code. If the director of administrative services determines that it is not possible or not advantageous to the state for the department to make the purchase, the department shall grant the agency a release and permit under section 125.06 of the Revised Code to make the purchase. Section 127.16 of the Revised Code does not apply to purchases the department makes under this section.

(2) Subject to division (D) of this section, a state agency desiring to purchase services that cost more than fifty thousand dollars or supplies that cost more than twenty-five thousand dollars shall solicit, pursuant to the competitive selection requirements specified in section 125.07 of the Revised Code, at least three bids or proposals for the services or supplies and make the purchase directly from the lowest bidder or offeror instead of from or through the department, but only if the state agency determines that it is possible to purchase the services or supplies directly from that bidder or offeror at a lower price than making the purchase from or through the department. If the agency makes a purchase pursuant to division (B)(2) of this section, it shall provide the department with written notification of the subject and amount of the purchase.

(C) An agency that has been granted a release and permit to make a purchase may make the purchase without competitive selection if after making the purchase the cumulative purchase threshold as computed under division (F) of section 127.16 of the Revised Code would:

- (1) Be exceeded and the controlling board approves the purchase; or
- (2) Not be exceeded and the department of administrative services approves the purchase.

(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts

accordingly.

(E) If the Ohio SchoolNet commission, the department of education, or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, the office, department, or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) to (D) of this section.

Sec. 125.06. The department of administrative services may, pursuant to division (B)(1) of section 125.05 of the Revised Code and subject to such rules as the director of administrative services may adopt, issue a release and permit to ~~the~~ a state agency to secure supplies or services. A release and permit shall specify the supplies or services to which it applies, the time during which it is operative, and the reason for its issuance. A release and permit for computer services ~~shall~~ shall also specify the type of services to be rendered; and the number and type of machines to be employed, and may specify the amount of ~~such~~ the services to be performed. One copy of every release and permit shall be filed with the agency to which it is issued, and one copy shall be retained by the department.

Sec. 125.07. The department of administrative services, in making a purchase by competitive selection pursuant to division (B)(1) of section 125.05 of the Revised Code, or a state agency, in making a purchase by competitive selection pursuant to division (B)(2) of section 125.02 of the Revised Code, shall give notice in the following manner:

(A) The department or state agency shall advertise the intended purchases by notice that is posted by mail or electronic means and that is for the benefit of competing persons producing or dealing in the supplies or services to be purchased, including, but not limited to, the persons whose names appear on the appropriate list provided for in section 125.08 of the Revised Code. The notice may be in the form of the bid or proposal document or of a listing in a periodic bulletin, or in any other form the director of administrative services or state agency head considers appropriate to sufficiently notify qualified competing persons of the intended purchases.

(B) The notice required under division (A) of this section shall include the time and place where bids or proposals will be accepted and opened, or, when bids are made in a reverse auction, the time when bids will be accepted; the conditions under which bids or proposals will be received; the terms of the proposed purchases; and an itemized list of the supplies or

services to be purchased and the estimated quantities or amounts of them.

(C) The posting of the notice required under division (A) of this section shall be completed by the number of days the director or state agency head determines preceding the day when the bids or proposals will be opened or accepted.

(D) The department or state agency also shall maintain, in a public place in its office, a bulletin board upon which it shall post and maintain a copy of the notice required under division (A) of this section for at least the number of days the director or state agency head determines under division (C) of this section preceding the day of the opening or acceptance of the bids or proposals. The failure to so additionally post the notice shall invalidate all proceedings had and any contract entered into pursuant to the proceedings.

Sec. 125.073. (A) The department of administrative services shall actively promote and accelerate the use of electronic procurement, including reverse auctions as defined by section 125.072 of the Revised Code, by implementing the relevant recommendations concerning electronic procurement from the "2000 Management Improvement Commission Report to the Governor" when exercising its statutory powers.

(B) Beginning July 1, 2004, the department shall annually on or before the first day of July report to the committees in each house of the general assembly dealing with finance indicating the effectiveness of electronic procurement.

Sec. 125.15. All state agencies required to secure any equipment, materials, supplies, or services, ~~or contracts of insurance~~ from the department of administrative services shall make acquisition in the manner and upon forms prescribed by the director of administrative services and shall reimburse the department for the equipment, materials, supplies, or services, ~~or contracts of insurance~~, including a reasonable sum to cover the department's administrative costs, whenever reimbursement is required by the department. The money so paid shall be deposited in the state treasury to the credit of the general services fund or the information technology fund, as appropriate. ~~Such~~ Those funds are hereby created.

Sec. 125.831. As used in sections 125.831 to 125.833 of the Revised Code:

(A) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority.

(B)(1) "Motor vehicle" means any automobile, car minivan, passenger van, sport utility vehicle, or pickup truck with a gross vehicle weight of

under twelve thousand pounds.

(2) "Motor vehicle" does not include any vehicle described in division (B)(1) of this section that is used by a law enforcement officer and law enforcement agency or any vehicle that is so described and that is equipped with specialized equipment that is not normally found in such a vehicle and that is used to carry out a state agency's specific and specialized duties and responsibilities.

(C) "Specialized equipment" does not include standard mobile radios with no capabilities other than voice communication, exterior and interior lights, or roof-mounted caution lights.

(D) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government, other than any state-supported institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly or any legislative agency, or the courts or any judicial agency.

Sec. 125.832. (A) The department of administrative services is granted exclusive authority over the acquisition and management of all motor vehicles used by state agencies. In carrying out this authority, the department shall do both of the following:

(1) Approve the purchase or lease of each motor vehicle for use by a state agency. The department shall decide if a motor vehicle shall be leased or purchased for that use.

(2) Direct and approve all funds that are expended for the purchase, lease, repair, maintenance, registration, insuring, and other costs related to the possession and operation of motor vehicles for the use of state agencies.

(B) The director of administrative services shall establish and operate a fleet management program. The director shall operate the program for purposes including, but not limited to, cost-effective acquisition, maintenance, management, analysis, and disposal of all motor vehicles owned or leased by the state. All state agencies shall comply with statewide fleet management policies and procedures established by the director for the program, including, but not limited to, motor vehicle assignments, additions of motor vehicles to fleets or motor vehicle replacements, motor vehicle fueling, and motor vehicle repairs.

(C) The director shall establish and maintain a fleet reporting system and shall require state agencies to submit to the department information relative to state motor vehicles, to be used in operating the fleet management program. State agencies shall provide to the department fleet data and information, including, but not limited to, mileage and costs. The

information shall be submitted in formats and in a manner determined by the department.

(D) All state agency purchases or leases of motor vehicles are subject to the prior approval of the director under division (A)(1) of this section.

(E) State agencies that utilize state motor vehicles or pay mileage reimbursements to employees shall provide a fleet plan to the department as directed by the department.

(F)(1) The fleets of state agencies that consist of one hundred or less vehicles on July 1, 2004, shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(2) The fleets of state agencies that consist of greater than one hundred motor vehicles, but less than five hundred motor vehicles, on July 1, 2005, also shall be managed by the department's fleet management program on a time schedule determined by the department, unless the state agency has received delegated authority as described in division (G) of this section.

(G)(1) The department may delegate any or all of its duties regarding fleet management to a state agency, if the state agency demonstrates to the satisfaction of the department both of the following:

(a) Capabilities to institute and manage a fleet management program, including, but not limited to, the presence of a certified fleet manager;

(b) Fleet management performance, as demonstrated by fleet data and other information submitted pursuant to annual reporting requirements and any other criteria the department considers necessary in evaluating the performance.

(2) The department may determine that a state agency is not in compliance with this section and direct that the agency's fleet management duties be transferred to the department.

(H) The proceeds derived from the disposition of any motor vehicles under this section shall be paid to whichever of the following applies:

(1) The fund that originally provided moneys for the purchase or lease of the motor vehicles;

(2) If the motor vehicles were originally purchased with moneys derived from the general revenue fund, the state treasury for credit to the fleet management fund created by section 125.83 of the Revised Code.

(I)(1) The department shall create and maintain a certified fleet manager program.

(2) State agencies that have received delegated authority as described in division (G) of this section shall have a certified fleet manager.

(J) The department annually shall prepare and submit a statewide fleet report to the governor, the speaker of the house of representatives, and the president of the senate. The report shall be submitted not later than the thirty-first day of January following the end of each fiscal year. It may include, but is not limited to, the numbers and types of motor vehicles, their mileage, miles per gallon, and cost per mile, mileage reimbursements, accident and insurance data, and information regarding compliance by state agencies having delegated authority under division (G) of this section with applicable fleet management requirements.

(K) The director shall adopt rules for implementing the fleet management program that are consistent with recognized best practices. The program shall be supported by reasonable fee charges for the services provided. The director shall collect these fees and deposit them into the state treasury to the credit for the fleet management fund created by section 125.83 of the Revised Code. The setting and collection of fees under this division is not subject to any restriction imposed by law upon the director's or the department's authority to set or collect fees.

(L) The director also shall adopt rules that prohibit, except in very limited circumstances, the exclusive assignment of state-owned, leased, or pooled motor vehicles to state employees. Beginning on the effective date of this section, no such motor vehicle shall be personally assigned as any form of compensation or benefit of state employment, and no such motor vehicle shall be assigned to an employee solely for commuting to and from home and work.

(M) The director shall do both of the following:

(1) Implement to the greatest extent possible the recommendations from the 2002 report entitled "Administrative Analysis of the Ohio Fleet Management Program" in connection with the authority granted to the department by this section;

(2) Attempt to reduce the number of passenger vehicles used by state agencies during the fiscal years ending on June 30, 2004, and June 30, 2005.

(N) Each state agency shall reimburse the department for all costs incurred in the assignment of motor vehicles to the state agency.

(O) The director shall do all of the following in managing the fleet management program:

(1) Determine how motor vehicles will be maintained, insured, operated, financed, and licensed;

(2) Pursuant to the formula in division (O)(3) of this section, annually establish the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the department to

receive a motor vehicle for business use;

(3) Establish the minimum number of business miles per year at an amount that results when the annual motor vehicle cost is divided by the amount that is the reimbursement rate per mile minus the amount that is the sum of the fuel cost, the operating cost, and the insurance cost. As used in this division:

(a) "Annual motor vehicle cost" means the price of a motor vehicle divided by the number of years an average motor vehicle is used.

(b) "Fuel cost" means the average price per gallon of motor fuel divided by the miles per gallon fuel efficiency of a motor vehicle.

(c) "Insurance cost" means the cost of insuring a motor vehicle per year divided by the number of miles an average motor vehicle is driven per year.

(d) "Operating cost" means the maintenance cost of a motor vehicle per year divided by the product resulting when the number of miles an average motor vehicle is driven per year is multiplied by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per mile rate for travel expenses as provided by rule of the director of budget and management adopted under division (B) of section 126.31 of the Revised Code.

Sec. 125.833. (A) There is hereby established within the department of administrative services the vehicle management commission.

(B) The commission shall consist of the director of administrative services and eight other members. These other members shall be two members of the house of representatives appointed by the speaker of the house of representatives, two members of the senate appointed by the president of the senate, and four persons with experience in the vehicle leasing, purchasing, and maintenance industry in this state appointed by the governor and serving at the governor's pleasure. The governor shall appoint the commission's chairperson.

Initial appointments of the members to the commission shall be made by September 1, 2003, in the manner prescribed in this section. Thereafter, appointments of legislative members to the commission shall be made within fifteen days after the commencement of the first regular session of the general assembly in the manner prescribed in this section. The terms of legislative members on the commission shall be for the duration of the session of the general assembly in which they are appointed; they shall continue to serve on the commission until the appointments are made in the following session of the general assembly, unless they cease to be members of the general assembly. A vacancy on the commission shall be filled for the

unexpired term in the same manner as the original appointment.

(C) The commission shall periodically review the implementation of the fleet management program by the department of administrative services under section 125.832 of the Revised Code and may recommend to the department and the general assembly modifications to the department's procedures and functions and other statutory changes.

Sec. 125.91. As used in sections 125.92 to 125.98 of the Revised Code:

(A) "State agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of the state for the exercise of any function of state government, but does not include any state-supported institution of higher education, the general assembly or any legislative agency, the attorney general, the auditor of state, the secretary of state, the treasurer of state, the bureau of workers' compensation, any court or judicial agency, or any political subdivision or agency ~~thereof~~ of a political subdivision.

(B) "Form" means any document, device, or item used to convey information, regardless of medium, that has blank spaces for the insertion of information and that may have a predetermined format and data elements to guide the entry, ~~interpretation~~ interpretation, and use of the information. "Form" does not include letterheads, envelopes, labels, tags, tickets, or note pads, or forms mandated by the federal government, but does include all computer-generated forms except those mandated by the federal government. ~~As used in sections 125.931 to 125.935 of the Revised Code, "form" applies only to a form that is used by a state agency and that is completed in whole or in part by private business, political subdivisions, or the public.~~

Sec. 125.92. There is hereby established in the department of administrative services a state forms management ~~control-center~~ program, which shall be under the control and supervision of the director of administrative services, ~~who shall appoint an administrator of the center or the director's designee.~~

~~The center~~ state forms management program shall ~~develop, implement, and maintain a statewide forms management program that involves be developed, implemented, and maintained for~~ all state agencies and ~~is be~~ designed to simplify, consolidate, or eliminate, when expedient, forms, surveys, and other documents used by state agencies. In developing the program, particular emphasis shall be placed upon determining the actual need for any information, records, and reports sought from private business, agriculture, and local governments through the use of ~~such~~ forms, surveys, and other documents.

Sec. 125.93. The state forms management ~~control-center~~ program shall do each of the following:

(A) Assist state agencies in establishing internal forms management capabilities;

(B) Study, develop, coordinate, and initiate forms of interagency and common administrative usage, and establish basic design and specification criteria to standardize state forms;

(C) Assist state agencies to design economical forms ~~and compose art work for forms~~;

(D) ~~Establish and supervise control procedures to prevent the undue creation and reproduction of state forms~~;

~~(E)~~ Assist, train, and instruct state agencies and their forms management representatives in forms management techniques, and provide direct forms management assistance to new state agencies as they are created;

~~(F)~~(E) Maintain a central ~~cross index~~ forms repository of all state forms to facilitate standardization of the forms, eliminate redundant forms, and provide a central source of information on forms usage and availability;

~~(G) Utilize existing functions within the department of administrative services to design economical forms and compose art work, as well as use appropriate procurement techniques to take advantage of competitive selection, consolidated orders, and contract procurement of forms~~;

~~(H) Conduct an annual evaluation of the effectiveness of the forms management program and the forms management practices of individual state agencies, and maintain records that indicate dollar savings resulting from, and the number of forms eliminated, simplified, or standardized through, centralized forms management. The results of the evaluation shall be reported to the speaker of the house of representatives and president of the senate not later than the fifteenth day of January each year. The center shall report on the first day of each month to the state records administrator on its activities during the preceding month.~~

Sec. 125.95. (A) The ~~administrator of the~~ state forms management ~~control-center~~ program may permit any state agency to manage fully any forms used or proposed to be used by it, whenever the ~~administrator~~ program determines that the delegation will result in the most timely and economical method of accomplishing the objectives of the ~~forms management~~ program as set forth in section 125.93 of the Revised Code. A determination to delegate to a state agency authority to manage forms may, among other matters, take into consideration the benefits of central management of any form in relation to the costs associated with ~~such~~ that management.

(B) To expedite the collection and disposition of general state and local revenue, the ~~administrator~~ state forms management program shall permit, without prior authorization, the tax commissioner to design, print or have printed, distribute, and require the use of those forms ~~which~~ that the tax commissioner determines are necessary for the proper administration of those taxes and programs ~~he~~ the tax commissioner administers except as provided in division (A) of section 4307.05 of the Revised Code. The tax commissioner shall report to the ~~administrator~~ program not later than fifteen days after the close of each calendar quarter with respect to the forms activities occurring within ~~his~~ the tax commissioner's agency during the preceding calendar quarter.

Sec. 125.96. The director of administrative services may adopt, amend, or rescind rules necessary to carry out the powers and duties imposed upon the state forms management ~~control center and its administrator~~ program and state agencies by sections 125.92 to 125.98 of the Revised Code. The director shall adopt, and may amend or rescind, rules providing ~~that~~ each of the following:

(A) After a date to be determined by the ~~administrator~~ state forms management program, no state agency shall utilize any form, other than a form subject to division (B) of section 125.95 of the Revised Code, the management of which has not been delegated to the agency by the ~~administrator~~ program under division (A) of ~~that~~ section 125.95 of the Revised Code or ~~that has not~~ been approved by the ~~center~~ program.

(B) The notice required by section 125.97 of the Revised Code shall appear in a standard place and a standard manner on each form to which the notice applies, and shall include specified indicia of approval by the ~~administrator~~ state forms management program.

(C) Any form required by a state agency on an emergency basis may be given interim approval by the ~~administrator~~ state forms management program if the form is accompanied by a letter from the director or other head of the agency setting forth the nature of the emergency and requesting interim approval.

Sec. 125.98. (A) Each state agency shall appoint a forms management representative, who may be from existing personnel. The appointee shall cooperate with, and provide other necessary assistance to, the director of administrative services and the ~~administrator of the~~ state forms management control center ~~program~~ in implementing the ~~state forms management~~ program. A forms management representative shall do all of the following:

(1) Manage the agency's forms management program and cooperate with and provide other necessary assistance to the director of administrative

services in implementing the state forms management program;

(2) Monitor the use and reproduction of all forms to ensure that all policies, procedures, guidelines, and standards established by the agency and the director of administrative services are followed;

(3) Ensure that every form used by the agency is presented to the state forms management ~~control-center~~ program for registration prior to its reproduction;

(4) Maintain a master forms file history file, in numeric order, of all agency forms;

(5) Verify and update the information on all forms ~~computer file reports returned to the agency by the state forms management control-center in the central forms repository database.~~

(B) Any state agency, as ~~such term is~~ defined in section 1.60 of the Revised Code, not included within the definition of a state agency in section 125.91 of the Revised Code may elect to participate in the state forms management program. The ~~center program~~ may provide to any such agency any service required or authorized by sections 125.92 to 125.98 of the Revised Code to be performed for a state agency.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the

purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under ~~the~~ disability assistance ~~medical assistance~~ program established under Chapter 5115. of the Revised Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or ~~5101.211~~ 5101.214 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182,

and ~~5111.252~~ 5123.199 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code or the children's health insurance program part II provided for under section 5101.51 of the Revised Code;

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (G)(2) of section 5126.055 of the Revised Code;

(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency.

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.02. (A) Whenever any amount is payable to the state, the officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. If the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. The attorney general may assess the collection cost to the amount certified in such manner and amount as prescribed by the attorney general.

(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the indebtedness.

(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., or 5747. of the Revised Code, the notice also shall specify all of the following:

- (a) The assessment or case number;
- (b) The tax pursuant to which the assessment is made;
- (c) The reason for the liability, including, if applicable, that a penalty or interest is due;
- (d) An explanation of how and when interest will be added to the amount assessed;
- (e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.

(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.

(D) Each claim shall bear interest, from the day on which the claim became due, at the ~~base~~ rate per annum ~~for advances and discounts to member banks in effect at the federal reserve bank in~~ required by section 5703.47 of the second federal reserve district Revised Code.

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do ~~either or both~~ any of the following if such action is in the best interests of the state:

- (1) Compromise the claim;
- (2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.

(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.

Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions:

(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement.

(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by ~~him~~ the fiscal officer under oath, which shall contain the following facts of such subdivision:

- (1) The total bonded indebtedness;
- (2) The aggregate amount of notes payable or outstanding accounts of the subdivision, incurred prior to the commencement of the current fiscal year, which shall include all evidences of indebtedness issued by the subdivision except notes issued in anticipation of bond issues and the indebtedness of any nontax-supported public utility;
- (3) Except in the case of school districts, the aggregate current year's requirement for disability financial assistance and disability medical assistance provided under Chapter 5115. of the Revised Code that the subdivision is unable to finance except by the issue of bonds;
- (4) The indebtedness outstanding through the issuance of any bonds or notes pledged or obligated to be paid by any delinquent taxes;
- (5) The total of any other indebtedness;
- (6) The net amount of delinquent taxes unpledged to pay any bonds, notes, or certificates, including delinquent assessments on improvements on which the bonds have been paid;
- (7) The budget requirements for the fiscal year for bond and note retirement;
- (8) The estimated revenue for the fiscal year.

(C) The certificate and statement provided for in divisions (A) and (B) of this section shall be forwarded to the tax commissioner together with a request for authority to issue bonds of such subdivision in an amount not to

exceed seventy per cent of the net unobligated delinquent taxes and assessments due and owing to such subdivision, as set forth in division (B)(6) of this section.

(D) No subdivision may issue bonds under this section in excess of a sufficient amount to pay the indebtedness of the subdivision as shown by division (B)(2) of this section and, except in the case of school districts, to provide funds for disability financial assistance and disability medical assistance, as shown by division (B)(3) of this section.

(E) The tax commissioner shall grant to such subdivision authority requested by such subdivision as restricted by divisions (C) and (D) of this section and shall make a record of the certificate, statement, and grant in a record book devoted solely to such recording and which shall be open to inspection by the public.

(F) The commissioner shall immediately upon issuing the authority provided in division (E) of this section notify the proper authority having charge of the retirement of bonds of such subdivision by forwarding a copy of such grant of authority and of the statement provided for in division (B) of this section.

(G) Upon receipt of authority, the subdivision shall proceed according to law to issue the amount of bonds authorized by the commissioner, and authorized by the taxing authority, provided the taxing authority of that subdivision may by resolution submit to the electors of that subdivision the question of issuing such bonds. Such resolution shall make the declarations and statements required by section 133.18 of the Revised Code. The county auditor and taxing authority shall thereupon proceed as set forth in divisions (C) and (D) of such section. The election on the question of issuing such bonds shall be held under divisions (E), (F), and (G) of such section, except that publication of the notice of such election shall be made on four separate days prior to such election in one or more newspapers of general circulation in the subdivisions. Such bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient

in amount to pay the debt charges on all such bonds issued under this section.

(I) This section is for the sole purpose of assisting the various subdivisions in paying their unsecured indebtedness, and providing funds for disability financial assistance and disability medical assistance. The bonds issued under authority of this section shall not be used for any other purpose and any exchange for other purposes, or the use of the money derived from the sale of such bonds by the subdivision for any other purpose, is misapplication of funds.

(J) The bonds authorized by this section shall be redeemable or payable in not to exceed ten years from date of issue and shall not be subject to or considered in calculating the net indebtedness of the subdivision. The budget commission of the county in which the subdivision is located shall annually allocate such portion of the then delinquent levy due such subdivision which is unpledged for other purposes to the payment of debt charges on the bonds issued under authority of this section.

(K) The issue of bonds under this section shall be governed by Chapter 133. of the Revised Code, respecting the terms used, forms, manner of sale, and redemption except as otherwise provided in this section.

The board of county commissioners of any county may issue bonds authorized by this section and distribute the proceeds of such bond issues to any or all of the cities and townships of such counties, according to their relative needs for disability financial assistance and disability medical assistance as determined by such county.

All sections of the Revised Code inconsistent with or prohibiting the exercise of the authority conferred by this section are inoperative respecting bonds issued under this section.

Sec. 131.35. (A) With respect to the federal funds received into any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any federal funds, whether such funds are advanced prior to expenditure or as reimbursement, unless such expenditures are made pursuant to specific appropriations of the general assembly ~~identifying the federal program that is the source of funds, are authorized pursuant to section 131.38 of the Revised Code,~~ are authorized by the controlling board pursuant to division (A)(5) of this section, or are authorized by an executive order issued in accordance with section 107.17 of the Revised Code, and until an allotment has been approved by the director of budget and management. All federal funds received by a state agency shall be reported to the director within fifteen

days of the receipt of such funds or the notification of award, whichever occurs first. The director shall prescribe the forms and procedures to be used when reporting the receipt of federal funds.

(2) If the federal funds received are greater than the amount of such funds appropriated by the general assembly for a specific purpose, the total appropriation of federal and state funds for such purpose shall remain at the amount designated by the general assembly, except that the expenditure of federal funds received in excess of such specific appropriation may be authorized by the controlling board.

(3) To the extent that the expenditure of excess federal funds is authorized, the controlling board may transfer a like amount of general revenue fund appropriation authority from the affected agency to the emergency purposes appropriation of the controlling board, if such action is permitted under federal regulations.

(4) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

(5) Controlling board authorization for a state agency to make an expenditure of federal funds constitutes authority for the agency to participate in the federal program providing the funds, and the agency is not required to obtain an executive order under section 107.17 of the Revised Code to participate in the federal program.

(B) With respect to nonfederal funds received into the waterways safety fund, the wildlife fund, and any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any such funds unless the expenditures are made pursuant to specific appropriations of the general assembly.

(2) If the receipts received into any fund are greater than the amount appropriated, the appropriation for that fund shall remain at the amount designated by the general assembly or as increased and approved by the controlling board.

(3) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

(C) The controlling board shall not authorize more than ten per cent of

additional spending from the occupational licensing and regulatory fund, created in section 4743.05 of the Revised Code, in excess of any appropriation made by the general assembly to a licensing agency except an appropriation for costs related to the examination or reexamination of applicants for a license. As used in this division, "licensing agency" and "license" have the same meanings as in section 4745.01 of the Revised Code.

Sec. 131.41. There is hereby created in the state treasury the family services stabilization fund. The fund shall consist of moneys deposited into it pursuant to acts of the general assembly. The director of budget and management, with advice from the director of job and family services, may transfer moneys in the family services stabilization fund to the general revenue fund for the department of job and family services. Moneys may be transferred due to identified shortfalls for family services activities, such as higher caseloads, federal funding changes, and unforeseen costs due to significant state policy changes. Before transfers are authorized, the director of budget and management shall exhaust the possibilities for transfers of moneys within the department of job and family services to meet the identified shortfall. Transfers shall not be used to fund policy changes not contemplated by acts of the general assembly. Any investment earnings of the family services stabilization fund shall be credited to that fund.

Sec. 145.38. (A) As used in this section and ~~section~~ sections 145.381 and 145.384 of the Revised Code:

(1) "PERS retirant" means a former member of the public employees retirement system who is receiving one of the following:

(a) Age and service retirement benefits under section 145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code;

(b) Age and service retirement benefits paid by the public employees retirement system under section 145.37 of the Revised Code;

(c) Any benefit paid under a PERS defined contribution plan.

(2) "Other system retirant" means both of the following:

(a) A member or former member of the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement benefits or a disability benefit from a system of which the person is a member or former member;

(b) A member or former member of the public employees retirement system who is receiving age and service retirement benefits or a disability benefit under section 145.37 of the Revised Code paid by the school

employees retirement system or the state teachers retirement system.

(B)(1) Subject to this section and section 145.381 of the Revised Code, a PERS retirant or other system retirant may be employed by a public employer. If so employed, the PERS retirant or other system retirant shall contribute to the public employees retirement system in accordance with section 145.47 of the Revised Code, and the employer shall make contributions in accordance with section 145.48 of the Revised Code.

(2) A public employer that employs a PERS retirant or other system retirant, or enters into a contract for services as an independent contractor with a PERS retirant shall notify the retirement board of the employment or contract not later than the end of the month in which the employment or contract commences. Any overpayment of benefits to a PERS retirant by the retirement system resulting from delay or failure of the employer to give the notice shall be repaid to the retirement system by the employer.

(3) On receipt of notice from a public employer that a person who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of such employment.

(4)(a) A PERS retirant who has received a retirement allowance for less than two months when employment subject to this section commences shall forfeit the retirement allowance for any month the PERS retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in calculation of any benefits payable to the PERS retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

(b) An other system retirant who has received a retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for any month the other system retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in the calculation of any benefits payable to the other system retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

(c) Contributions made on compensation earned after the expiration of the two-month period shall be used in the calculation of the benefit or payment due under section 145.384 of the Revised Code.

(5) On receipt of notice from the Ohio police and fire pension fund, school employees retirement system, or state teachers retirement system of the re-employment of a PERS retirant, the public employees retirement system shall not pay, or if paid, shall recover, the amount to be forfeited by

the PERS retirant in accordance with section 742.26, 3307.35, or 3309.341 of the Revised Code.

(6) A PERS retirant who enters into a contract to provide services as an independent contractor to the employer by which the retirant was employed at the time of retirement or, less than two months after the retirement allowance commences, begins providing services as an independent contractor pursuant to a contract with another public employer, shall forfeit the pension portion of the retirement benefit for the period beginning the first day of the month following the month in which the services begin and ending on the first day of the month following the month in which the services end. The annuity portion of the retirement allowance shall be suspended on the day services under the contract begin and shall accumulate to the credit of the retirant to be paid in a single payment after services provided under the contract terminate. A PERS retirant subject to division (B)(6) of this section shall not contribute to the retirement system and shall not become a member of the system.

(7) As used in this division, "employment" includes service for which a PERS retirant or other system retirant, the retirant's employer, or both, have waived any earnable salary for the service.

(C)(1) Except as provided in division (C)(3) of this section, this division applies to both of the following:

(a) A PERS retirant who, prior to September 14, 2000, was subject to division (C)(1)(b) of this section as that division existed immediately prior to September 14, 2000, and has not elected pursuant to Am. Sub. S.B. 144 of the 123rd general assembly to cease to be subject to that division;

(b) A PERS retirant to whom both of the following apply:

(i) The retirant held elective office in this state, or in any municipal corporation, county, or other political subdivision of this state at the time of retirement under this chapter.

(ii) The retirant was elected or appointed to the same office for the remainder of the term or the term immediately following the term during which the retirement occurred.

(2) A PERS retirant who is subject to this division is a member of the public employees retirement system with all the rights, privileges, and obligations of membership, except that the membership does not include survivor benefits provided pursuant to section 145.45 of the Revised Code or, beginning on the ninetieth day after September 14, 2000, any amount calculated under section 145.401 of the Revised Code. The pension portion of the PERS retirant's retirement allowance shall be forfeited until the first day of the first month following termination of the employment. The

annuity portion of the retirement allowance shall accumulate to the credit of the PERS retirant to be paid in a single payment after termination of the employment. The retirement allowance shall resume on the first day of the first month following termination of the employment. On termination of the employment, the PERS retirant shall elect to receive either a refund of the retirant's contributions to the retirement system during the period of employment subject to this section or a supplemental retirement allowance based on the retirant's contributions and service credit for that period of employment.

(3) This division does not apply to any of the following:

(a) A PERS retirant elected to office who, at the time of the election for the retirant's current term, was not retired but, not less than ninety days prior to the primary election for the term or the date on which a primary for the term would have been held, filed a written declaration of intent to retire before the end of the term with the board of elections of the county in which petitions for nomination or election to the office ~~were~~ are filed;

(b) A PERS retirant elected to office who, at the time of the election for the retirant's current term, was a retirant and had been retired for not less than ninety days;

(c) A PERS retirant appointed to office who, at the time of appointment to the retirant's current term, notified the person or entity making the appointment that the retirant was already retired or intended to retire before the end of the term.

(D)(1) Except as provided in division (C) of this section, a PERS retirant or other system retirant subject to this section is not a member of the public employees retirement system, and, except as specified in this section does not have any of the rights, privileges, or obligations of membership. Except as specified in division (D)(2) of this section, the retirant is not eligible to receive health, medical, hospital, or surgical benefits under section 145.58 of the Revised Code for employment subject to this section.

(2) A PERS retirant subject to this section shall receive primary health, medical, hospital, or surgical insurance coverage from the retirant's employer, if the employer provides coverage to other employees performing comparable work. Neither the employer nor the PERS retirant may waive the employer's coverage, except that the PERS retirant may waive the employer's coverage if the retirant has coverage comparable to that provided by the employer from a source other than the employer or the public employees retirement system. If a claim is made, the employer's coverage shall be the primary coverage and shall pay first. The benefits provided under section 145.58 of the Revised Code shall pay only those medical

expenses not paid through the employer's coverage or coverage the PERS retiree receives through a source other than the retirement system.

(E) If the disability benefit of an other system retiree employed under this section is terminated, the retiree shall become a member of the public employees retirement system, effective on the first day of the month next following the termination with all the rights, privileges, and obligations of membership. If such person, after the termination of the disability benefit, earns two years of service credit under this system or under the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system, the person's prior contributions as an other system retiree under this section shall be included in the person's total service credit as a public employees retirement system member, and the person shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(F) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 20, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

(G) The public employees retirement board may adopt rules to carry out this section.

Sec. 145.381. (A) This section applies in the case of a person who is or most recently has been employed by a public employer in a position that is customarily filled by a vote of members of a board or commission or by the legislative authority of a county, municipal corporation, or township.

(B) A board, commission, or legislative authority that proposes to continue the employment as a reemployed retiree or rehire as a reemployed retiree to the same position an individual described in division (A) of this section shall do both of the following in accordance with rules adopted under division (C) of this section:

(1) Not less than sixty days before the employment as a reemployed retiree is to begin, give public notice that the person is or will be retired and is seeking employment with the public employer;

(2) Between fifteen and thirty days before the employment as a reemployed retiree is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the public employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) The public employees retirement board shall adopt rules as necessary to implement this section.

Sec. 147.01. (A) The secretary of state may appoint and commission as notaries public as many persons who meet the qualifications of division (B) of this section as the secretary of state considers necessary.

(B) In order for a person to qualify to be appointed and commissioned as a notary public, the person must satisfy both of the following:

(1) The person has attained the age of eighteen years.

(2) One of the following applies:

(a) The person is a ~~citizen~~ legal resident of this state who is not an attorney admitted to the practice of law in this state by the Ohio supreme court.

(b) The person is a ~~citizen~~ legal resident of this state who is an attorney admitted to the practice of law in this state by the Ohio supreme court.

(c) The person is not a ~~citizen~~ legal resident of this state, is an attorney admitted to the practice of law in this state by the Ohio supreme court, and has the person's principal place of business or the person's primary practice in this state.

(C) A notary public shall be appointed and commissioned as a notary public for the state. The secretary of state may revoke a commission issued to a notary public upon presentation of satisfactory evidence of official misconduct or incapacity.

Sec. 147.37. Each person receiving a commission as notary public, ~~except including~~ an attorney admitted to the practice of law in this state by the Ohio supreme court, shall pay a fee of ~~five~~ fifteen dollars to the secretary of state. ~~Each person receiving a commission as a notary public who is an attorney admitted to the practice of law in this state by the Ohio supreme court shall pay a fee of ten dollars to the secretary of state.~~

Sec. 149.011. As used in this chapter:

(A) "Public office" includes any state agency, public institution, political subdivision, or ~~any~~ other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.

(B) "State agency" includes every department, bureau, board, commission, office, or other organized body established by the constitution and laws of this state for the exercise of any function of state government, including any state-supported institution of higher education, the general assembly, ~~or~~ any legislative agency, any court or judicial agency, or any political subdivision or agency ~~thereof~~ of a political subdivision.

(C) "Public money" includes all money received or collected by or due a

public official, whether in accordance with or under authority of any law, ordinance, resolution, or order, under color of office, or otherwise. It also includes any money collected by any individual on behalf of a public office or as a purported representative or agent of the public office.

(D) "Public official" includes all officers, employees, or duly authorized representatives or agents of a public office.

(E) "Color of office" includes any act purported or alleged to be done under any law, ordinance, resolution, order, or other pretension to official right, power, or authority.

(F) "Archive" includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Sec. 149.30. The Ohio historical society, chartered by this state as a corporation not for profit to promote a knowledge of history and archaeology, especially of Ohio, and operated continuously in the public interest since 1885, may perform public functions as prescribed by law.

The general assembly may appropriate money to the Ohio historical society each biennium to carry out the public functions of the society as enumerated in this section. An appropriation by the general assembly to the society constitutes an offer to contract with the society to carry out those public functions for which appropriations are made. An acceptance by the society of the appropriated funds constitutes an acceptance by the society of the offer and is considered an agreement by the society to perform those functions in accordance with the terms of the appropriation and the law and to expend the funds only for the purposes for which appropriated. The governor may request on behalf of the society, and the controlling board may release, additional funds to the society for survey, salvage, repair, or rehabilitation of an emergency nature for which funds have not been appropriated, and acceptance by the society of those funds constitutes an agreement on the part of the society to expend those funds only for the purpose for which released by the controlling board.

The society shall faithfully expend and apply all moneys received from the state to the uses and purposes directed by law and for necessary administrative expenses. The society shall perform the public function of

sending notice by certified mail to the owner of any property at the time it is listed on the national register of historic places. The society shall accurately record all expenditures of such funds in conformity with generally accepted accounting principles.

The auditor of state shall audit all funds and fiscal records of the society.

The public functions to be performed by the Ohio historical society shall include all of the following:

(A) Creating, supervising, operating, protecting, maintaining, and promoting for public use a system of state memorials, titles to which may reside wholly or in part with this state or wholly or in part with the society as provided in and in conformity to appropriate acts and resolves of the general assembly, and leasing for renewable periods of two years or less, with the advice and consent of the attorney general and the director of administrative services, lands and buildings owned by the state which are in the care, custody, and control of the society, all of which shall be maintained and kept for public use at reasonable hours;

(B) Making alterations and improvements, marking, and constructing, reconstructing, protecting, or restoring structures, earthworks, and monuments in its care, and equipping such facilities with appropriate educational maintenance facilities;

(C) Serving as the archives administration for the state and its political subdivisions as provided in sections 149.31 to 149.42 of the Revised Code;

(D) Administering a state historical museum, to be the headquarters of the society and its principal museum and library, which shall be maintained and kept for public use at reasonable hours;

(E) Establishing a marking system to identify all designated historic and archaeological sites within the state and marking or causing to be marked historic sites and communities considered by the society to be historically or archaeologically significant;

(F) Publishing books, pamphlets, periodicals, and other publications about history, archaeology, and natural science and ~~supplying~~ offering one copy of each regular periodical issue to all public libraries in this state ~~without charge at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of publication;~~

(G) Engaging in research in history, archaeology, and natural science and providing historical information upon request to all state agencies;

(H) Collecting, preserving, and making available by all appropriate means and under approved safeguards all manuscript, print, or near-print library collections and all historical objects, specimens, and artifacts which

pertain to the history of Ohio and its people, including the following original documents: Ohio Constitution of 1802; Ohio Constitution of 1851; proposed Ohio Constitution of 1875; design and the letters of patent and assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 (1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 (1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 (1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 (1947);

(I) Encouraging and promoting the organization and development of county and local historical societies;

(J) Providing to Ohio schools ~~with~~ such materials ~~at cost or near cost~~ as the society may prepare to facilitate the instruction of Ohio history at a reasonable price, which shall not exceed one hundred ten per cent more than the total cost of preparation and delivery;

(K) Providing advisory and technical assistance to local societies for the preservation and restoration of historic and archaeological sites;

(L) Devising uniform criteria for the designation of historic and archaeological sites throughout the state and advising local historical societies of the criteria and their application;

(M) Taking inventory, in cooperation with the Ohio arts council, the Ohio archaeological council, and the archaeological society of Ohio, of significant designated and undesignated state and local sites and keeping an active registry of all designated sites within the state;

(N) Contracting with the owners or persons having an interest in designated historic or archaeological sites or property adjacent or contiguous to those sites, or acquiring, by purchase, gift, or devise, easements in those sites or in property adjacent or contiguous to those sites, in order to control or restrict the use of those historic or archaeological sites or adjacent or contiguous property for the purpose of restoring or preserving the historical or archaeological significance or educational value of those sites;

(O) Constructing a monument honoring Governor James A. Rhodes, which shall stand on the northeast quadrant of the grounds surrounding the capitol building. The monument shall be constructed with private funds donated to the Ohio historical society and designated for this purpose. No public funds shall be expended to construct this monument. The department of administrative services shall cooperate with the Ohio historical society in

carrying out this function and shall maintain the monument in a manner compatible with the grounds of the capitol building.

(P) Commissioning a portrait of each departing governor, which shall be displayed in the capitol building. The Ohio historical society may accept private contributions designated for this purpose and, at the discretion of its board of trustees, also may apply for the same purpose funds appropriated by the general assembly to the society pursuant to this section.

(Q) Planning and developing a center at the capitol building for the purpose of educating visitors about the history of Ohio, including its political, economic, and social development and the design and erection of the capitol building and its grounds. The Ohio historical society may accept contributions of private moneys and in-kind services designated for this purpose and may, at the discretion of its board of trustees, also apply, for the same purpose, personnel and other resources paid in whole or in part by its state subsidy.

(R) Submitting an annual report of its activities, programs, and operations to the governor within two months after the close of each fiscal year of the state.

The society shall not sell, mortgage, transfer, or dispose of historical or archaeological sites to which it has title and in which the state has monetary interest except by action of the general assembly.

In consideration of the public functions performed by the Ohio historical society for the state, employees of the society shall be considered public employees within the meaning of section 145.01 of the Revised Code.

Sec. 149.31. (A) The Ohio historical society, in addition to its other functions, shall function as the state archives administration for the state and its political subdivisions.

It shall be the function of the state archives to preserve government archives, documents, and records of historical value ~~which~~ that may come into its possession from public or private sources.

The archives administration shall evaluate, preserve, arrange, service repair, or make other disposition, such as transfer to public libraries, county historical societies, state universities, or other public or quasi-public institutions, agencies, or corporations, of those public records of the state and its political subdivisions ~~which~~ that may come into its possession under ~~the provisions of~~ this section. Such public records shall be transferred by written agreement only, and only to public or quasi-public institutions, agencies, or corporations capable of meeting accepted archival standards for housing and use.

The archives administration shall be headed by a trained archivist designated by the Ohio historical society, and shall make its services available to county, city, township, and ~~school~~ school district records commissions upon request. The archivist shall be designated as the "state archivist."

(B) The archives administration ~~of the Ohio historical society~~ may purchase or procure for itself, or authorize the board of trustees of an archival institution to purchase or procure from an insurance company licensed to do business in this state policies of insurance insuring the administration or the members of the board and their officers, employees, and agents against liability on account of damage or injury to persons and property resulting from any act or omission of the board members, officers, employees, and agents in their official capacity.

(C) Notwithstanding any other provision of the Revised Code to the contrary, the archives administration may establish a fee schedule, which may include the cost of labor, for researching, retrieving, copying, and mailing copies of public records in the state archives. Revisions to the fee schedule shall be subject to approval by the board of trustees of the Ohio historical society.

Sec. 149.33. (A) The department of administrative services shall have ~~full~~ responsibility for establishing and administering a state records program for all state agencies, except for state-supported institutions of higher education. The department shall apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposition of state records.

There is hereby established within the department of administrative services ~~an office of a state records administration program~~, which shall be under the control and supervision of the director of administrative services or ~~his~~ the director's appointed deputy. ~~The director shall designate an administrator of the office of state records administration.~~

(B) The boards of trustees of state-supported institutions of higher education shall have full responsibility for establishing and administering a records program for their respective institutions. The boards shall apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposition of the records of their respective institutions.

Sec. 149.331. The state ~~record administration~~ records program of the department of administrative services shall do all of the following:

(A) Establish and promulgate in consultation with the state archivist standards, procedures, and techniques for the effective management of state

records;

~~(B) Make continuing surveys of record-keeping operations and recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, storing, and servicing records;~~

~~(C) Establish and operate such state records centers and auxiliary facilities as may be authorized by appropriation and provide such related services as are deemed necessary for the preservation, screening, storage, and servicing of state records pending disposition;~~

~~(D)~~ Review applications for one-time records disposal and schedules of records retention and destruction submitted by state agencies in accordance with section 149.333 of the Revised Code;

~~(E)~~(C) Establish "general schedules" proposing the disposal, after the lapse of specified periods of time, of records of specified form or character common to several or all agencies that either have accumulated or may accumulate in such agencies and that apparently will not, after the lapse of the periods specified, have sufficient administrative, legal, fiscal, or other value to warrant their further preservation by the state;

~~(F)~~(D) Establish and maintain a records management training program, and provide a basic consulting service, for personnel involved in record-making and record-keeping functions of departments, offices, and institutions;

~~(G) Obtain reports from departments, offices, and institutions necessary for the effective administration of the program;~~

~~(H)~~(E) Provide for the disposition of any remaining records of any state agency, board, or commission, whether in the executive, judicial, or legislative branch of government, that has terminated its operations. After the closing of the Ohio veterans' children's home, the resident records of the home and the resident records of the home when it was known as the soldiers' and sailors' orphans' home required to be maintained by approved records retention schedules shall be administered by the state department of education pursuant to this chapter, the administrative records of the home required to be maintained by approved records retention schedules shall be administered by the department of administrative services pursuant to this chapter, and historical records of the home shall be transferred to an appropriate archival institution in this state prescribed by the state ~~record~~ administration records program.

~~(I)~~(F) Establish a centralized program coordinating micrographics standards, training, and services for the benefit of all state agencies;

~~(J)~~(G) Establish and publish in accordance with the applicable law

necessary procedures and rules for the retention and disposal of state records.

This section does not apply to the records of state-supported institutions of higher education, which shall keep their own records.

Sec. 149.332. Upon request the ~~state records administrator~~ director of administrative services and the state archivist shall assist and advise in the establishment of records management programs in the legislative and judicial branches of state government and shall, as required by them, provide program services similar to those available to the executive branch ~~pursuant to~~ under section 149.33 of the Revised Code. Prior to the disposal of any records, the state archivist shall be allowed sixty days to select for preservation in the state archives those records ~~he~~ the state archivist determines to have continuing historical value.

Sec. 149.333. No state agency shall retain, destroy, or otherwise transfer its state records in violation of this section. This section does not apply to state-supported institutions of higher education.

Each state agency shall submit to the state records ~~administrator~~ program under the director of administrative services all applications for records disposal or transfer and all schedules of records retention and destruction. The state records ~~administrator~~ program shall review ~~such~~ the applications and schedules and provide written approval, rejection, or modification of ~~the~~ an application or schedule. The state records ~~administrator~~ program shall then forward the application for records disposal or transfer or the schedule for retention or destruction, with the ~~administrator's~~ program's recommendation attached, to the auditor of state for review and approval. The decision of the auditor of state to approve, reject, or modify the ~~applications~~ application or ~~schedules~~ schedule shall be based upon the continuing administrative and fiscal value of the state records to the state or to its citizens. If the auditor of state disapproves the action by the state agency, ~~he~~ the auditor of state shall so inform the state agency through the state records ~~administrator~~ program within sixty days, and ~~these~~ the records shall not be destroyed. ~~At~~

At the same time, the state records ~~administrator~~ program shall forward the application for records disposal or transfer or the schedule for retention or destruction to the state archivist for review and approval. The state archivist shall have sixty days to select for custody ~~such~~ the state records ~~as he~~ that the state archivist determines to be of continuing historical value. Records not ~~so~~ selected shall be disposed of in accordance with this section.

Sec. 149.34. The head of each state agency, office, institution, board, or commission shall do the following:

(A) Establish, maintain, and direct an active continuing program for the effective management of the records of the state agency;

~~(B) Cooperate with the state records administrator in the conduct of surveys pursuant to section 149.331 of the Revised Code;~~

~~(C)~~ Submit to the state records administrator program, in accordance with applicable standards and procedures, schedules proposing the length of time each record series warrants retention for administrative, legal, or fiscal purposes after it has been received or created by the agency. The head ~~of each state agency~~ also shall submit to the state records administrator program applications for disposal of records in ~~his~~ the head's custody that are not needed in the transaction of current business and are not otherwise scheduled for retention or destruction.

~~(D) Transfer to a state records center or auxiliary facilities, in the manner prescribed by the state records administrator, those records of the agency that can be retained more efficiently and economically in such a center;~~

~~(E)~~(C) Within one year after their date of creation or receipt, schedule all records for disposition or retention in the manner prescribed by applicable law and procedures.

This section does not apply to state-supported institutions of higher education.

Sec. 149.35. If any law prohibits the destruction of records, ~~neither the state records administrator nor~~ director of administrative services, the director's designee, or the boards of trustees of state-supported institutions of higher education shall not order their destruction or other disposition; ~~and, if,~~ If any law provides that records shall be kept for a specified period of time, ~~neither the administrator nor director of administrative services, the director's designee, or~~ the boards shall not order their destruction or other disposition prior to the expiration of such that period.

Sec. 153.65. As used in sections 153.65 to 153.71 of the Revised Code:

(A) "Public authority" means the state, ~~or~~ a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special district of the state or a county, township, municipal corporation, school district, or other political subdivision.

(B) "Professional design firm" means any person legally engaged in rendering professional design services.

(C) "Professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703. of the Revised Code or a professional engineer or surveyor registered under

Chapter 4733. of the Revised Code.

(D) "Qualifications" means all of the following:

(1) Competence of the professional design firm to perform the required professional design services as indicated by the technical training, education, and experience of the firm's personnel, especially the technical training, education, and experience of the employees within the firm who would be assigned to perform the services;

(2) Ability of the firm in terms of its workload and the availability of qualified personnel, equipment, and facilities to perform the required professional design services competently and expeditiously;

(3) Past performance of the firm as reflected by the evaluations of previous clients with respect to such factors as control of costs, quality of work, and meeting of deadlines;

(4) ~~Other similar~~ Any other relevant factors as determined by the public authority.

Sec. 153.691. No public authority planning to contract for professional design services under section 153.69 of the Revised Code shall require any form of fee estimate, fee proposal, or other estimate or measure of compensation prior to selecting and ranking professional design firms, except in instances when firms are selected and ranked by a state agency from a list of prequalified firms created under section 153.68 of the Revised Code and the state agency's payment of funds for the professional design services has been preapproved by the controlling board.

Sec. 164.14. (A) The local transportation improvement program fund is hereby created in the state treasury. The fund shall consist of moneys credited to it pursuant to ~~section~~ sections 117.16 and 5735.23 of the Revised Code, and, subject to the limitations of section 5735.05 of the Revised Code, shall be used to make grants to local subdivisions for projects that have been approved by district public works integrating committees and the Ohio public works commission in accordance with this section. The fund shall be administered by the Ohio public works commission, and shall be allocated each fiscal year on a per capita basis to district public works integrating committees in accordance with the most recent decennial census statistics. Money in the fund may be used to pay reasonable costs incurred by the commission in administering this section. Investment earnings on moneys credited to the fund shall be retained by the fund.

(B) Grants awarded under this section may provide up to one hundred per cent of the estimated total cost of the project.

(C) No grant shall be awarded for a project under this section unless the project is designed to have a useful life of at least seven years, except that

the average useful life of all such projects for which grants are awarded in each district during a fiscal year shall be not less than twenty years.

(D) For the period beginning on July 1, 1989, and ending on June 30, 1994, and for each succeeding five-year period, at least one-third of the total amount of money allocated to each district from the local transportation improvement program fund shall be awarded as follows:

(1) Forty-two and eight-tenths per cent for projects of municipal corporations;

(2) Thirty-seven and two-tenths per cent for projects of counties;

(3) Twenty per cent for projects of townships, except that the requirement of division (D)(3) of this section shall not apply in districts where the combined population of the townships in the district is less than five per cent of the population of the district.

(E) Each district public works integrating committee shall review, and approve or disapprove requests submitted to it by local subdivisions for assistance from the local transportation improvement program fund. In reviewing projects submitted to it, a district public works integrating committee shall consider the following factors:

(1) Whether the project is of critical importance to the safety of the residents of the local subdivision;

(2) Whether the project would alleviate serious traffic problems or hazards or would respond to needs caused by rapid growth and development;

(3) Whether the project would assist the local subdivision in attaining the transportation infrastructure needed to pursue significant and specific economic development opportunities;

(4) The availability of other sources of funding for the project;

(5) The adequacy of the planning for the project and the readiness of the local subdivision to proceed should the project be approved;

(6) The local subdivision's ability to pay for and history of investing in bridge and highway improvements;

(7) The impact of the project on the multijurisdictional highway and bridge needs of the district;

(8) The requirements of divisions (A), (B), (C), and (D) of this section;

(9) The condition of the infrastructure system proposed for improvement;

(10) Any other factors related to the safety, orderly growth, or economic development of the district or local subdivision that the district public works integrating committee considers relevant.

A district public works integrating committee or its executive committee

may appoint a subcommittee to assist it in carrying out its responsibilities under this section.

(F) Every project approved by a district public works integrating committee shall be submitted to the Ohio public works commission for its review and approval or disapproval. The commission shall not approve any project that fails to meet the requirements of this section.

(G) Grants awarded from the local transportation improvement program fund shall not be limited in their usage by divisions (D), (E), (F), (G), (H), and (I) of section 164.05 of the Revised Code.

(H) As used in this section, "local subdivision" means a county, municipal corporation, or township.

(I) The director of the Ohio public works commission shall notify the director of budget and management of the amounts allocated pursuant to this section, and the allocation information shall be entered into the state accounting system. The director of budget and management shall establish appropriation line items as needed to track these allocations.

Sec. 164.27. (A) The clean Ohio conservation fund is hereby created in the state treasury. Seventy-five per cent of the net proceeds of obligations issued and sold by the issuing authority pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. Investment earnings of the fund shall be credited to the fund. ~~For two years after the effective date of this section, investment earnings credited to the fund and~~ may be used to pay costs incurred by the Ohio public works commission in administering sections 164.20 to 164.27 of the Revised Code. Moneys in the clean Ohio conservation fund shall be used to make grants to local political subdivisions and nonprofit organizations for projects that have been approved for grants under sections 164.20 to 164.27 of the Revised Code.

The clean Ohio conservation fund shall be administered by the Ohio public works commission.

(B) For the purpose of grants issued under sections 164.20 to 164.27 of the Revised Code, moneys shall be allocated on an annual basis from the clean Ohio conservation fund to districts represented by natural resources assistance councils as follows:

(1) Each district shall receive an amount that is equal to one-fourth of one per cent of the total annual amount allocated to all districts each year for each county that is represented by the district.

(2) The remaining moneys shall be allocated to each district annually on a per capita basis.

(C) A grant that is awarded under sections 164.20 to 164.27 of the Revised Code may provide up to seventy-five per cent of the estimated cost

of a project. Matching funds from a grant recipient may consist of contributions of money by any person, any local political subdivision, or the federal government or of contributions in-kind by such entities through the purchase or donation of equipment, land, easements, interest in land, labor, or materials necessary to complete the project.

(D) The director of the Ohio public works commission shall notify the director of budget and management of the amounts allocated pursuant to this section, and that information shall be entered in the state accounting system. The director of budget and management may establish appropriate line items or other mechanisms that are needed to track the allocations.

(E) Grants awarded under sections 164.20 to 164.27 of the Revised Code from the clean Ohio conservation fund shall be used by a local political subdivision or nonprofit organization only to pay the costs related to the purposes for which grants may be issued under section 164.22 of the Revised Code and shall not be used by a local political subdivision or nonprofit organization to pay any administrative costs incurred by the local political subdivision or nonprofit organization.

Sec. 165.09. Any real or personal property, or both, of an issuer ~~which~~ that is acquired, constructed, reconstructed, enlarged, improved, furnished or equipped, or any combination thereof, and leased or subleased under authority of either Chapter 165. or 761. of the Revised Code shall be subject to ad valorem, sales, use, and franchise taxes and to zoning, planning, and building regulations and fees, to the same extent and in the same manner as if the lessee-user or sublessee-user thereof, rather than the issuer, had acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, such real or personal property, and title thereto was in the name of such lessee-user or sublessee-user.

The transfer of tangible personal property by lease or sublease under authority of either Chapter 165. or 761. of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code. The exemptions provided in divisions (B)(1) and (B)~~(14)~~(13) of section 5739.02 of the Revised Code shall not be applicable to purchases for a project under either Chapters 165. or 761. of the Revised Code.

An issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under Chapter 165. or 761. of the Revised Code, so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer, but development has

not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) In addition to the requirements of division ~~(H)~~(G)(1) of this section, moneys referred to in that division may be deposited to the credit of separate accounts within the innovation Ohio loan fund or in the bond service fund

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

Sec. 173.06. (A) The director of aging shall establish a golden buckeye card program and provide a golden buckeye card to any resident of this state who applies to the director for a card and ~~who~~ is sixty years of age or older or ~~disabled~~ is a person with a disability and is eighteen years of age or older. The director shall devise programs to provide benefits of any kind to card holders, and encourage support and participation in them by all persons, including governmental organizations. Card holders shall be entitled to any benefits granted to them by private persons or organizations, the laws of this state, or ordinances or resolutions of political subdivisions. This section does not require any person or organization to provide benefits to any card holder. The department of aging shall bear all costs of the program, except that the department is not required to bear any costs related to the prescription drug ~~discount~~ programs established pursuant to section 173.061 of the Revised Code.

(B) Before issuing a golden buckeye card to any person, the director shall establish the identity of any person who applies for a card and shall ascertain that such person is sixty years of age or older or ~~disabled~~ is a person with a disability and is eighteen years of age or older. The director shall adopt rules under Chapter 119. of the Revised Code to prevent the issuance of cards to persons not qualified to have them. Cards shall contain the signature of the card holder and any other information the director considers necessary to carry out the purposes of the golden buckeye card program under this section. Any card that the director issues shall be held in perpetuity by the original card holder and shall not be transferable to any

other person. A person who loses the person's card may obtain another card from the director upon providing the same information to the director as was required for the issuance of the original card.

(C) No person shall use a golden buckeye card except to obtain a benefit for the holder of the card to which the holder is entitled under the conditions of the offer.

(D) As used in this section, "~~disabled person~~ person with a disability" means a person who has some impairment of body or mind ~~that makes the person unfit to work at any substantially remunerative employment that the person is substantially able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery therefrom, or who~~ and has been certified as permanently and totally disabled by an agency of this state or the United States having the function of so classifying persons.

Sec. 173.061. (A) As used in this section:

(1) "Prescription drug" means a drug that may not be dispensed without a prescription from a licensed health professional authorized to prescribe drugs.

(2) "Drug," "licensed health professional authorized to prescribe drugs," "pharmacy," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(3) "~~Disabled person~~ Person with a disability" has the same meaning as in section 173.06 of the Revised Code.

(4) "Drug discount" means a reimbursement of a certain portion of the wholesale price of a drug to the administrator of a prescription drug program for funds accrued or paid in connection with a reduction in cost of the drug by the manufacturer to the prescription drug program cardholder pursuant to an agreement between the manufacturer and the administrator and in consideration of the administrator's agreement to return one hundred per cent of the non-negotiated discounts to the cardholder at the point of sale. A discount is not tied to and does not vary based on market share performance.

(5) "Rebate" means a refund of a certain portion of the wholesale price of a drug to the administrator of a prescription drug program based on a negotiated agreement between the manufacturer and the administrator and in consideration of market share performance or continued access or availability of the drug under the administrator's prescription drug program.

(B) The director of aging shall establish one or more prescription drug ~~discount card~~ programs that enable cardholders to receive ~~discounts~~ reduced prices on prescription drugs dispensed at participating pharmacies. A card shall be provided to any resident of this state who applies in accordance with

rules adopted by the director pursuant to division (F) of this section and is sixty years of age or older or is a ~~disabled~~ person with a disability.

If the director establishes more than one prescription drug ~~discount-card~~ program under this section, an eligible resident may participate in one or more or all of the programs.

(C)(1) The director shall solicit and accept proposals from entities separate from the department of aging to provide for administration of a program or programs in accordance with rules adopted under division (F) of this section. Proposals must be submitted not later than a date established by the director. The director shall accept only those proposals that specify all of the following:

(a) The estimated amount of the ~~discount~~ reduced prices on prescription drugs based on the entity's previous experience and how the ~~discount reduction~~ is to be achieved;

(b) To the extent that ~~discounts on prescription drugs are to be achieved through rebates or discounts in prices that the~~ an entity negotiates rebates with drug manufacturers, the proportion of the rebates ~~or discounts~~ to be used to do ~~all~~ any of the following:

(i) Reduce any costs to cardholders;

(ii) ~~Achieve discounts for cardholders;~~

~~(iii) Cover costs for administering the program;~~

(iii) Offer any other benefits to cardholders.

(c) Any other benefits offered to cardholders;

(d) If fees are permitted, the fee, if any, to cardholders for participation in the program and whether the fee is to be a one-time or periodic fee;

(e) The estimated number and geographic distribution of participating pharmacies and the process for establishing the program's pharmacy network;

(f) Financial incentives to be paid to participating pharmacies by the entity;

(g) The percentage of prescription drugs to be covered by the program by major drug category;

(h) How the entity proposes to improve medication management for cardholders;

(i) How cardholders and participating pharmacies will be informed of the ~~discounted~~ reduced price negotiated by the entity;

(j) How the entity will handle complaints about the program's operation;

(k) The entity's previous experience in managing similar programs;

(l) Any additional information requested by the director.

(2) The director shall contract with one or more entities to administer a

program or programs on the basis of the proposals submitted, but may require an administrator to modify its conduct of a program in accordance with rules adopted under division (F) of this section. Prior to entering into a contract with an entity, the director shall obtain approval of the contract from the controlling board at a public hearing.

The director shall adopt rules specifying the period for which a contract will be in effect and may terminate a contract if an administrator fails to conduct a program in accordance with its proposal or with any modifications required by rule. When a contract period ends or a contract is terminated, the director shall enter into a new contract in the manner specified in this section for an original contract. Prior to making a new contract, the director may modify the rules for administration of the program or programs.

(D) The rules for administration of a program established under division (C)(2) of this section may permit an administrator to charge a fee for a prescription drug ~~discount~~ card. The fee may be a one-time or periodic fee. If the rules permit a fee to be charged, each entity that submits a proposal under which a fee will be charged shall specify the amount of the fee and the period to which the fee will apply.

If an administrator charges a fee for a prescription drug ~~discount~~ card, the rules may require the administrator to issue the cards. If an administrator does not charge a fee, the rules may require the administrator to issue the cards or may include the prescription drug ~~discount~~ information on golden buckeye cards issued under section 173.06 of the Revised Code.

(E) As used in this division, "administrator" includes the administrator's parent company and any subsidiary of the parent company.

(1) No administrator shall sell any information concerning a person who holds a prescription drug ~~discount~~ card, other than aggregate information that does not identify the cardholder, without the cardholder's written consent.

(2) Unless an administrator has the cardholder's written consent, no administrator shall use any personally identifiable information that it obtains concerning a cardholder through the program to promote or sell a program or product offered by the administrator that is not related to the administration of the program. This division does not prohibit an administrator from contacting cardholders concerning participation in or administration of the program, including, but not limited to, mailing a list of pharmacies participating in the program's network.

(3) When determining medicaid drug rebates, an administrator shall be subject to best price calculations promulgated by the centers for medicare and medicaid services in the United States department of health and human

services. With prior approval of the controlling board, an administrator may use rebates negotiated with a drug manufacturer for purposes other than those provided in divisions (E)(3)(a), (b), and (c) of this section, including sharing a portion of the rebate with the administrator's clients, prescription drug program participants, or participating pharmacies. To the extent that a discount is achieved through rebates or discounts in prices that an administrator negotiates rebates with drug manufacturers, ~~an~~ the administrator shall use the rebates ~~or discounts~~ to do one or more of the following:

- (a) Reduce any costs to cardholders;
- (b) ~~Achieve discounts for cardholders;~~
- (~~e~~) Cover any administrative costs of the program;
- (c) Offer any other benefits to cardholders.

(4) An administrator may negotiate with drug manufacturers to have the prescription drug program or programs established by the department of aging under this section serve as a single enrollment point for the manufacturer's discount program. To the extent that discounts are offered by manufacturers through the program, discounts are exempt from best price calculations when determining medicaid drug rebates pursuant to 42 U.S.C. 1396r-8, as amended, if all of the following apply:

(a) The manufacturer's program provides prescription drug assistance to a limited group of persons without negotiations between the manufacturer and a third party regarding the amount of assistance.

(b) The manufacturer establishes the amount of the benefit to be given to persons without negotiations between the manufacturer and a third party regarding the amount of the benefit.

(c) The entire amount of the discount is used to benefit an individual without providing an opportunity for the administrator, participating pharmacies, or any other third party to reduce or take for its use a portion of the benefit.

(d) A participating pharmacy is reimbursed based on the lower of a calculated formula equal to the average wholesale price less a defined percentage plus a dispensing fee, or the pharmacy's usual and customary price for the drug.

(e) Other than the benefit amount, a participating pharmacy collects no additional payment from the manufacturer's discount program.

(5) To the extent that drug discounts on prescription drugs are achieved through reduced prices an administrator obtains from drug manufacturers, the administrator shall use the drug discounts to reduce prescription drug costs for cardholders.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Specify how a resident may apply to participate in any one or more prescription drug discount card programs;

(2) Provide for the administration of each program;

(3) Specify the circumstances under which the director may require an administrator to modify its conduct of a program;

(4) Specify the duration of a contract;

(5) Specify whether an administrator may charge a fee for a card and whether an administrator is required to issue the cards;

(6) Require that an administrator permit any pharmacy willing to comply with the administrator's terms and conditions for participation in the program's network to participate in any network used by the administrator for its program;

(7) Prohibit an administrator from requiring a pharmacy or drug manufacturer to participate in the program's network as a condition of participation in another network operated by the administrator;

(8) Permit an administrator to work with one or more drug manufacturers to obtain drug discounts;

(9) Permit an administrator to negotiate with one or more drug manufacturers for ~~discounts in drug prices or rebates;~~

~~(9)~~(10) Permit an administrator to receive any rebate payments from drug manufacturers;

~~(10)~~(11) Require that an administrator create a financial incentive program for participating pharmacies through which the administrator shall distribute a portion of any rebate payments from drug manufacturers received under division (F)~~(9)~~(10) of this section.

(G) Not later than one month after the end of each twelve-month period that one or more prescription drug ~~discount card~~ programs are in operation, each administrator shall collect from each of its participating pharmacies and provide to the director of aging the information required by section 173.071 of the Revised Code.

Sec. 173.062. Records identifying the recipients of golden buckeye cards issued under section 173.06 of the Revised Code or prescription drug ~~discount~~ cards issued under section 173.061 of the Revised Code are not public records subject to inspection or copying under section 149.43 of the Revised Code and may be disclosed only at the discretion of the director of aging. The director may disclose only information in records identifying the recipients of golden buckeye cards or prescription drug ~~discount~~ cards that does not contain the recipient's medical history or prescription drug

utilization history.

Sec. 173.07. Not later than four months after the end of each twelve-month period that one or more prescription drug ~~discount-card~~ programs established under section 173.061 of the Revised Code are in operation, the director of aging shall issue a report on the operation of each program during that twelve-month period.

Sec. 173.071. Each report issued under section 173.07 of the Revised Code shall be based on information received by the director of aging from each administrator under division (G) of section 173.061 of the Revised Code and specify all of the following about each program:

- (A) The number of prescription drug ~~discount~~ cardholders;
- (B) The number of cardholders who used the card at least once in the immediately preceding twelve-month period;
- (C) The total cost savings to all cardholders generated by the program;
- (D) The average cost savings to a cardholder per prescription;
- (E) The source and method of cost savings under the program;
- (F) The drugs that are discounted under the program listed according to major drug category;

(G) The drugs for which rebates are offered under the program, listed according to major drug category;

(H) For each participating pharmacy, the number of times in the twelve-month period that the pharmacy's customary and usual price was lower than the price offered under the prescription drug ~~discount~~ program;

~~(H)~~(I) The name of the program's administrator;

~~(H)~~(J) The length of the contract between the director and the program's administrator;

~~(J)~~(K) The number of pharmacies participating in the program;

~~(K)~~(L) Other than the cost of prescription drugs, any fees paid by cardholders to participate in the program;

~~(L)~~(M) Any costs incurred by the state to operate the program;

~~(M)~~(N) Any costs incurred by participating pharmacies to participate in the program.

Sec. 173.08. (A) The resident services coordinator program is established in the department of aging to fund resident services coordinators. The coordinators shall provide information to low-income and special-needs tenants, including the elderly, who live in subsidized rental housing complexes, and assist those tenants in identifying and obtaining community and program services and other benefits for which they are eligible.

(B) The resident services coordinator program fund is hereby created in the state treasury to support the resident services coordinator program

established pursuant to this section. The fund consists of all moneys the department of development sets aside pursuant to division (A)(4) of section 175.21 of the Revised Code and moneys the general assembly appropriates to the fund.

Sec. 173.14. As used in sections 173.14 to 173.26 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for two or more unrelated adults, including all of the following:

(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;

(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(d) An "adult care facility" as defined in section 3722.01 of the Revised Code;

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(f) An adult foster home certified under section 173.36 of the Revised Code.

(2) "Long-term care facility" does not include a "residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons ~~age sixty or older~~ in their own homes or in community care settings, and includes any of the following:

- (1) Case management;
- (2) Home health care;
- (3) Homemaker services;
- (4) Chore services;
- (5) Respite care;
- (6) Adult day care;
- (7) Home-delivered meals;

(8) Personal care;
(9) Physical, occupational, and speech therapy;
(10) Any other health and social services provided to persons ~~age sixty or older~~ that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.

(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging ~~three~~ six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) Adult care facilities as defined in section 3722.01 of the Revised Code;

(5) ~~Adult foster homes certified under section 173.36 of the Revised Code;~~

~~(6)~~ Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted ~~under section 111.15~~ in accordance with Chapter 119, of the Revised Code, establish deadlines for payments required by this section.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ~~ombudsman~~ ombudsperson program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ~~ombudsman~~ ombudsperson programs.

(C) The state long-term care ~~ombudsman~~ ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 175.03. (A)(1) The Ohio housing finance agency shall consist of eleven members. Nine of the members shall be appointed by the governor with the advice and consent of the senate. The director of commerce and the director of development, or their respective designees, shall also be voting members of the agency. Of the nine appointed members, at least one shall have experience in residential housing construction; at least one shall have experience in residential housing mortgage lending, loan servicing, or brokering; at least one shall have experience in the licensed residential housing brokerage business; at least one shall have experience with the housing needs of senior citizens; at least one shall be from a background in labor representation in the construction industry; at least one shall represent the interests of nonprofit multifamily housing development corporations; at least one shall represent the interests of for-profit multifamily housing development organizations; and two shall be public members. The governor shall receive recommendations from the Ohio housing council for appointees to represent the interests of nonprofit multifamily housing development corporations and for-profit multifamily housing development organizations. Each appointee representing multifamily housing interests currently shall be employed with an organization that is active in the area of affordable housing development or management. No more than six of the appointed members of the agency shall be of the same political party. Of the appointments made to the agency for the eighth and ninth appointed members in accordance with this amendment, one shall be for a term ending on January 31, 2005, and one shall be for a term ending on January 31, 2006. Thereafter, each appointed member shall serve for a term ending on the thirty-first day of January which is six years following the date of termination of the term which it succeeds. Each member shall hold office

from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Each appointed member may be removed from office by the governor for misfeasance, nonfeasance, malfeasance in office, or for failure to attend in person three consecutive meetings of the agency.

(2) ~~The director of development or the director's designee~~ governor shall ~~be appointed~~ the chairperson of the agency. The agency shall elect one of its ~~appointed~~ members as vice-chairperson and such other officers as it deems necessary, who need not be members of the agency. Each appointed member of the agency shall receive compensation at the rate of one hundred fifty dollars per agency meeting attended in person, not to exceed a maximum of three thousand dollars per year. All members shall be reimbursed for their actual and necessary expenses incurred in the discharge of their official duties.

(3) Six members of the agency constitute a quorum, and the affirmative vote of six members shall be necessary for any action taken by the agency. No vacancy in membership of the agency impairs the right of a quorum to exercise all the rights and perform all the duties of the agency. Meetings of the agency may be held at any place within the state. Meetings of the agency, including notice of the place of meetings, shall comply with section 121.22 of the Revised Code.

(B)(1) The appointed members of the agency are not subject to section 102.02 of the Revised Code. Each such appointed member shall file with the agency a signed written statement setting forth the general nature of sales of goods, property or services or of loans to the agency in which such member has a pecuniary interest or in which any member of the member's immediate family, as defined in section 102.01 of the Revised Code, or any corporation, partnership or enterprise of which the member is an officer, director, or partner, or of which the member or a member of the member's immediate family, as so defined, owns more than a five per cent interest, has a pecuniary interest, and of which sale, loan and interest such member has knowledge. The statement shall be supplemented from time to time to reflect changes in the general nature of any such sales or loans. No member shall participate in portions of agency meetings dealing with, or vote concerning, any such matter.

(2) The requirements of this section pertaining to disclosure and prohibition from participation and voting do not apply to agency loans to lending institutions or contracts between the agency and lending institutions for the purchase, administration, or servicing of loans notwithstanding that such lending institution has a director, officer, employee, or owner who is a member of the agency, and no such loans or contracts shall be deemed to be prohibited or otherwise regulated by reason of any other law or rule.

(3) The members of the agency representing multifamily housing interests are not in violation of division (A) of section 2921.42, division (D) of section 102.03, or division (E) of section 102.03 of the Revised Code in regard to a contract the agency enters into if both of the following apply:

(a) The contract is entered into for a loan, grant, or participation in a program administered or funded by the agency and the contract was awarded pursuant to rules or guidelines the agency adopted.

(b) The member does not participate in the discussion or vote on the contract if the contract secured a grant or loan that would directly benefit the member, a family member, or a business associate of the member.

Sec. 175.21. (A) The low- and moderate-income housing trust fund is hereby created in the state treasury. The fund shall consist of all appropriations; made to the fund, housing trust fund fees collected by county recorders pursuant to section 317.36 of the Revised Code and deposited into the fund pursuant to section 319.63 of the Revised Code, and all grants, gifts, loan repayments, and contributions of money made from any source to the department of development for deposit in the fund. All investment earnings of the fund shall be credited to the fund. The director of development shall allocate a portion of the money in the fund to an account of the Ohio housing finance agency. The department shall administer the fund. The agency shall use money allocated to it in the fund for implementing and administering its programs and duties under sections 175.22 and 175.24 of the Revised Code, and the department shall use the remaining money in the fund for implementing and administering its programs and duties under sections 175.22 to 175.25 of the Revised Code. Use of all money in the fund is subject to the following restrictions:

(1) Not more than six per cent of any current year appropriation authority for the fund shall be used for the transitional and permanent housing program to make grants to municipal corporations, counties, townships, and nonprofit organizations for the acquisition, rehabilitation, renovation, construction, conversion, operation, and cost of supportive services for new and existing transitional and permanent housing for homeless persons.

(2)(a) Not more than five per cent of any current year appropriation authority for the fund shall be used for grants and loans to community development corporations and the Ohio community development finance fund, a private nonprofit corporation.

(b) In any year in which the amount in the fund exceeds one hundred thousand dollars, not less than one hundred thousand dollars shall be used to provide training, technical assistance, and capacity building assistance to nonprofit development organizations in areas of the state the director designates as underserved.

(c) For monies awarded in any fiscal year, priority shall be given to proposals submitted by nonprofit development organizations from areas of the state the director designates as underserved.

(3) Not more than seven per cent of any current year appropriation authority for the fund shall be used for the emergency shelter housing grants program to make grants to private, nonprofit organizations and municipal corporations, counties, and townships for emergency shelter housing for the homeless. The grants shall be distributed pursuant to rules the director adopts and qualify as matching funds for funds obtained pursuant to the McKinney Act, 101 Stat. 85 (1987), 42 U.S.C.A. 11371 to 11378.

(4) In any fiscal year in which the amount in the fund exceeds the amount awarded pursuant to division (A)(2)(b) of this section by at least two hundred fifty thousand dollars, at least two hundred fifty thousand dollars from the fund shall be provided to the department of aging for the resident services coordinator program.

(5) Of all money in the fund:

(a) Not more than five per cent shall be used for administration.

(b) Not less than forty-five per cent of the ~~amount of~~ funds awarded during any one fiscal year shall be ~~used to make for~~ grants and loans to nonprofit organizations under section 175.22 of the Revised Code, ~~not.~~

(c) Not less than fifty per cent of the ~~amount of~~ funds awarded during any one fiscal year, ~~excluding the amounts awarded pursuant to divisions (A)(1), (A)(2), and (A)(3) of this section,~~ shall be ~~used to make for~~ grants and loans for activities that ~~will~~ provide housing and housing assistance to families and individuals in rural areas and small cities that ~~would~~ are not be eligible to participate as a participating jurisdiction under the "HOME Investment Partnerships Act," 104 Stat. 4094 (1990), 42 U.S.C. 12701 note, 12721, ~~no more than five per cent of the money in the fund shall be used for administration, and no.~~

(d) No money in the fund shall be used to pay for any legal services other than the usual and customary legal services associated with the

acquisition of housing.

(6) Except as otherwise provided by the director under division (B) of this section, money in the fund may be used as matching money for federal funds received by the state, counties, municipal corporations, and townships for the activities listed in section 175.22 of the Revised Code.

(B) If after the second quarter of any year it appears to the director that the full amount of the money in the ~~low- and moderate-income housing trust~~ fund designated in that year for activities that ~~will~~ provide housing and housing assistance to families and individuals in rural areas and small cities under division (A) of this section will not be ~~so~~ used for that purpose, the director may reallocate all or a portion of that amount for other housing activities. In determining whether or how to reallocate money under this division, the director may consult with and shall receive advice from the housing trust fund advisory committee.

Sec. 175.22. (A) The department of development and the Ohio housing finance agency shall each develop programs under which, in accordance with rules adopted under this section, ~~it~~ they may make grants, loans, loan guarantees, and loan subsidies to counties, municipal corporations, townships, local housing authorities, and nonprofit organizations and may make loans, loan guarantees, and loan subsidies to private developers and private lenders to assist ~~them~~ in activities that ~~will~~ provide housing and housing assistance for specifically targeted low- and moderate-income families and individuals. There ~~shall be~~ is no minimum housing project size for awards under this division for any project that is ~~being~~ developed for a special needs population and that is supported by a social service agency where the housing project ~~will be~~ is located. Activities for which grants, loans, loan guarantees, and loan subsidies may be made under this section include all of the following:

(1) Acquiring, financing, constructing, leasing, rehabilitating, remodeling, improving, and equipping publicly or privately owned housing;

(2) Providing supportive services related to housing and the homeless, including housing counseling. Not more than twenty per cent of the current year appropriation authority for the low- and moderate-income housing trust fund that remains after the award of funds made pursuant to divisions (A)(1), (A)(2), and (A)(3) of section 175.21 of the Revised Code, shall be awarded in any fiscal year for ~~such~~ supportive services.

(3) Providing rental assistance payments or other project operating subsidies that lower tenant rents.

(B) Grants, loans, loan guarantees, and loan subsidies may be made to counties, municipal corporations, townships, and nonprofit organizations for

the additional purposes of providing technical assistance, design and finance services and consultation, and payment of pre-development and administrative costs related to any of the activities listed above.

(C) In developing programs under this section, the department and the agency shall invite, accept, and consider public comment, and recommendations from the housing trust fund advisory committee created under section 175.25 of the Revised Code, on how the programs should be designed to most effectively benefit low- and moderate-income families and individuals. The programs developed under this section shall respond collectively to housing and housing assistance needs of low- and moderate-income families and individuals statewide.

(D) The department and the agency, in accordance with Chapter 119. of the Revised Code, shall each adopt rules ~~under which it shall~~ to administer programs developed ~~by it~~ under this section. The rules shall prescribe procedures and forms ~~whereby~~ that counties, municipal corporations, townships, local housing authorities, and nonprofit organizations ~~may apply~~ shall use in applying for grants, loans, loan guarantees, and loan subsidies and that private developers and private lenders ~~may apply~~ shall use in applying for loans, loan guarantees, and loan subsidies; eligibility criteria for the receipt of funds; procedures for reviewing and granting or denying applications; procedures for paying out funds; conditions on the use of funds; procedures for monitoring the use of funds; and procedures under which a recipient shall be required to repay funds that are improperly used. The rules ~~adopted by the department~~ shall do both of the following:

(1) Require each recipient of a grant or loan made from the low- and moderate-income housing trust fund for activities that ~~will~~ provide, or assist in providing, a rental housing project, to reasonably ensure that the rental housing project will ~~be~~ remain affordable to those families and individuals targeted for the rental housing project for the useful life of the rental housing project or for thirty years, whichever is longer;

(2) Require each recipient of a grant or loan made from the low- and moderate-income housing trust fund for activities that ~~will~~ provide, or assist in providing, a housing project to prepare and implement a plan to reasonably assist any families and individuals displaced by the housing project in obtaining decent affordable housing.

(E) In prescribing eligibility criteria and conditions for the use of funds, neither the department nor the agency is limited to the criteria and conditions specified in this section and each may prescribe additional eligibility criteria and conditions that relate to the purposes for which grants, loans, loan guarantees, and loan subsidies may be made. However, the

department and agency are limited by the following specifically targeted low- and moderate-income guidelines:

(1) Not less than seventy-five per cent of the money granted and loaned under this section in any fiscal year shall be for activities that ~~will~~ provide affordable housing and housing assistance to families and individuals ~~in a county~~ whose incomes are equal to or less than fifty per cent of the median income for ~~that~~ the county in which they live, as determined by the department under section 175.23 of the Revised Code.

(2) ~~The remainder of the~~ Any money granted and loaned under this section in any fiscal year ~~that is not granted or loaned pursuant to division (E)(1) of this section~~ shall be for activities that ~~will~~ provide affordable housing and housing assistance to families and individuals ~~in a county~~ whose incomes are equal to or less than eighty per cent of the median income for ~~that~~ the county in which they live, as determined by the department under section 175.23 of the Revised Code.

(F) In making grants, loans, loan guarantees, and loan subsidies under this section, the department and the agency shall give preference to viable projects and activities that ~~will~~ benefit those families and individuals ~~in a county~~ whose incomes are equal to or less than thirty-five per cent of the median income for ~~that~~ the county in which they live, as determined by the department under section 175.23 of the Revised Code.

(G) The department and the agency shall monitor the programs developed under this section to ensure that money granted and loaned under this section is not used in a manner that violates division (H) of section 4112.02 of the Revised Code or discriminates against families with children.

Sec. 183.02. This section's references to years mean state fiscal years.

All payments received by the state pursuant to the tobacco master settlement agreement shall be deposited into the state treasury to the credit of the tobacco master settlement agreement fund, which is hereby created. All investment earnings of the fund shall also be credited to the fund. Except as provided in division (K) of this section, payments and interest credited to the fund shall be transferred by the director of budget and management as follows:

(A)(1) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually from 2000 to 2006 and in 2012, the following amount or percentage shall be transferred to the tobacco use prevention and cessation trust fund, created in section 183.03 of the Revised Code:

YEAR	AMOUNT OR PERCENTAGE
2000 (first payment credited)	\$104,855,222.85

2000 (net amount credited)	70.30%
2001	62.84
2002	61.41
2003	63.24
2004	66.65
2005	66.24
2006	65.97
2012	56.01

(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2015, the director shall transfer to the tobacco use prevention and cessation trust fund the amount not transferred to the tobacco use prevention and cessation trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2004 due to Am. Sub. H.B. 95 of the 125th general assembly.

(B) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually in 2000 and 2001, the following amount or percentage shall be transferred to the law enforcement improvements trust fund, created in section 183.10 of the Revised Code:

YEAR	AMOUNT OR PERCENTAGE
2000 (first payment credited)	\$10,000,000
2000 (net amount credited)	5.41%
2001	2.32

(C)(1) Of the first payment credited to the tobacco master settlement agreement fund in 2000 and the net amounts credited to the fund annually from 2000 to 2011, the following percentages shall be transferred to the southern Ohio agricultural and community development trust fund, created in section 183.11 of the Revised Code:

YEAR	PERCENTAGE
2000 (first payment credited)	5.00%
2000 (net amount credited)	8.73
2001	8.12
2002	9.18
2003	8.91
2004	7.84
2005	7.79
2006	7.76
2007	17.39
2008 through 2011	17.25

(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to the southern Ohio agricultural and community development trust fund the amount not transferred to the southern Ohio agricultural and community development trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to the southern Ohio agricultural and community development trust fund the amount not transferred to the southern Ohio agricultural and community development trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly.

(D)(+) The following percentages of the net amounts credited to the tobacco master settlement agreement fund annually shall be transferred to Ohio's public health priorities trust fund, created in section 183.18 of the Revised Code:

YEAR	PERCENTAGE
2000	5.41
2001	6.68
2002	6.79
2003	6.90
2004	7.82
2005	8.18
2006	8.56
2007	19.83
2008	19.66
2009	20.48
2010	21.30

2011	22.12
2012	10.47

~~(2) Of the net amounts credited to the tobacco master settlement agreement fund in 2013, the director shall transfer to Ohio's public health priorities trust fund the amount not transferred to Ohio's public health priorities trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2002 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly. Of the net amounts credited to the tobacco master settlement agreement fund in 2014, the director shall transfer to Ohio's public health priorities trust fund the amount not transferred to Ohio's public health priorities trust fund from the net amounts credited to the tobacco master settlement agreement fund in 2003 due to Am. Sub. H.B. No. 405 and Am. Sub. S.B. No. 242 of the 124th general assembly.~~

(E) The following percentages of the net amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the biomedical research and technology transfer trust fund, created in section 183.19 of the Revised Code:

YEAR	PERCENTAGE
2000	2.71
2001	14.03
2002	13.29
2003	12.73
2004	13.78
2005	14.31
2006	14.66
2007	49.57
2008 to 2011	45.06
2012	18.77

(F) Of the amounts credited to the tobacco master settlement agreement fund annually, the following amounts shall be transferred to the education facilities trust fund, created in section 183.26 of the Revised Code:

YEAR	AMOUNT
2000	\$133,062,504.95
2001	128,938,732.73
2002	185,804,475.78
2003	180,561,673.11
2004	122,778,219.49
2005	121,389,325.80
2006	120,463,396.67

2007	246,389,369.01
2008 to 2011	267,531,291.85
2012	110,954,545.28

(G) Of the amounts credited to the tobacco master settlement agreement fund annually, from 2000 to 2012 five million dollars per year shall be transferred to the education facilities endowment fund, created in section 183.27 of the Revised Code. From 2013 to 2025, the following percentages of the amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the endowment fund:

YEAR	PERCENTAGE
2013	30.22
2014	33.36
2015 to 2025	40.90

(H) The following percentages of the net amounts credited to the tobacco master settlement agreement fund annually shall be transferred to the education technology trust fund, created in section 183.28 of the Revised Code:

YEAR	PERCENTAGE
2000	7.44
2001	6.01
2002	9.33
2003	8.22
2004	3.91
2005	3.48
2006	3.05
2007	13.21
2008	18.03
2009	17.21
2010	16.39
2011	15.57
2012	14.75

(I) In each year from 2003 to 2025, after the transfers made under divisions (F) and (G) of this section but prior to the transfers made under divisions (A) to (E) of this section, the director of budget and management shall transfer to the tobacco settlement oversight, administration, and enforcement fund created in section 183.34 of the Revised Code such amount as the director determines necessary to pay the costs incurred by the attorney general in tobacco settlement oversight, administration, and enforcement.

(J) In each year from 2003 to 2025, after the transfers made under

divisions (F) and (G) of this section but prior to the transfers made under divisions (A) to (E) of this section, the director of budget and management shall transfer to the tobacco settlement enforcement fund created in section 183.35 of the Revised Code such amount as the director determines necessary to pay the costs incurred by the tax commissioner in the enforcement of divisions (F) and (G) of section 5743.03 of the Revised Code.

(K) If in any year from 2001 to 2012 the payments and interest credited to the tobacco master settlement agreement fund during the year amount to less than the amounts required to be transferred to the education facilities trust fund and the education facilities endowment fund that year, the director of budget and management shall make none of the transfers required by divisions (A) to (J) of this section.

(L) If in any year from 2000 to 2025 the payments credited to the tobacco master settlement agreement fund during the year exceed the following amounts, the director of budget and management shall transfer the excess to the income tax reduction fund, created in section 131.44 of the Revised Code:

YEAR	AMOUNT
2000	\$443,892,767.51
2001	348,780,049.22
2002	418,783,038.09
2003	422,746,368.61
2004	352,827,184.57
2005	352,827,184.57
2006	352,827,184.57
2007	352,827,184.57
2008 to 2017	383,779,323.15
2018 to 2025	403,202,282.16

Sec. 306.35. Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, the authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code. Subject to any reservations, limitations, and qualifications that are set forth in those sections, the regional transit authority:

- (A) May sue or be sued in its corporate name;
- (B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;
- (C) May adopt and at will alter a seal and use such seal by causing it to

be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;

(D)(1) May adopt, amend, and repeal bylaws for the administration of its affairs and rules for the control of the administration and operation of transit facilities under its jurisdiction, and for the exercise of all of its rights of ownership in those transit facilities;

(2) The regional transit authority also may adopt bylaws and rules for the following purposes:

(a) To prohibit selling, giving away, or using any beer or intoxicating liquor on transit vehicles or transit property;

(b) For the preservation of good order within or on transit vehicles or transit property;

(c) To provide for the protection and preservation of all property and life within or on transit vehicles or transit property;

(d) To regulate and enforce the collection of fares.

(3) Before a bylaw or rule adopted under division (D)(2) of this section takes effect, the regional transit authority shall provide for a notice of its adoption to be published once a week for two consecutive weeks in a newspaper of general circulation within the territorial boundaries of the regional transit authority.

(4) No person shall violate any bylaw or rule of a regional transit authority adopted under division (D)(2) of this section.

(E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, repair, maintenance, and operation of transit facilities under its jurisdiction, the payment of principal and interest on its obligations, and to fulfill the terms of any agreements made with purchasers or holders of any such obligations, or with any person or political subdivision;

(F) Shall have jurisdiction, control, possession, and supervision of all property, rights, easements, licenses, moneys, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to it;

(G) May acquire, construct, improve, extend, repair, lease, operate, maintain, or manage transit facilities within or without its territorial boundaries, considered necessary to accomplish the purposes of its organization and make charges for the use of transit facilities;

(H) May levy and collect taxes as provided in sections 306.40 and

306.49 of the Revised Code;

(I) May issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(J) May hold, encumber, control, acquire by donation, by purchase for cash or by installment payments, by lease-purchase agreement, by lease with option to purchase, or by condemnation, and may construct, own, lease as lessee or lessor, use, and sell, real and personal property, or any interest or right in real and personal property, within or without its territorial boundaries, for the location or protection of transit facilities and improvements and access to transit facilities and improvements, the relocation of buildings, structures, and improvements situated on lands acquired by the regional transit authority, or for any other necessary purpose, or for obtaining or storing materials to be used in constructing, maintaining, and improving transit facilities under its jurisdiction;

(K) May exercise the power of eminent domain to acquire property or any interest in property, within or without its territorial boundaries, that is necessary or proper for the construction or efficient operation of any transit facility or access to any transit facility under its jurisdiction in accordance with section 306.36 of the Revised Code;

(L) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of counties or municipal corporations for the making of necessary surveys, appraisals, and examinations preliminary to the acquisition or construction of any transit facility and the amount of the expense for the surveys, appraisals, and examinations to be paid by each such county or municipal corporation;

(M) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination of those counties or municipal corporations for the acquisition, construction, improvement, extension, maintenance, or operation of any transit facility owned or to be owned and operated by it or owned or to be owned and operated by any such county or municipal corporation and the terms on which it shall be acquired, leased, constructed, maintained, or operated, and the amount of the cost and expense of the acquisition, lease, construction, maintenance, or operation to be paid by each such county or municipal corporation;

(N) May issue revenue bonds for the purpose of acquiring, replacing, improving, extending, enlarging, or constructing any facility or permanent improvement that it is authorized to acquire, replace, improve, extend, enlarge, or construct, including all costs in connection with and incidental to

the acquisition, replacement, improvement, extension, enlargement, or construction, and their financing, as provided by section 306.37 of the Revised Code;

(O) May enter into and supervise franchise agreements for the operation of a transit system;

(P) May accept the assignment of and supervise an existing franchise agreement for the operation of a transit system;

(Q) May exercise a right to purchase a transit system in accordance with the acquisition terms of an existing franchise agreement; and in connection with the purchase the regional transit authority may issue revenue bonds as provided by section 306.37 of the Revised Code or issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(R) May apply for and accept grants or loans from the United States, the state, or any other public body for the purpose of providing for the development or improvement of transit facilities, mass transportation facilities, equipment, techniques, methods, or services, and grants or loans needed to exercise a right to purchase a transit system pursuant to agreement with the owner of those transit facilities, or for providing lawful financial assistance to existing transit systems; and may provide any consideration that may be required in order to obtain those grants or loans from the United States, the state, or other public body, either of which grants or loans may be evidenced by the issuance of revenue bonds as provided by section 306.37 of the Revised Code or general obligation bonds as provided by section 306.40 of the Revised Code;

(S) May employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, accounting and financial experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes;

(T) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property occurring in the construction or operation of transit facilities under its jurisdiction or the conduct of its activities;

(U) May maintain funds that it considers necessary for the efficient performance of its duties;

(V) May direct its agents or employees, when properly identified in writing, after at least five days' written notice, to enter upon lands within or without its territorial boundaries in order to make surveys and examinations preliminary to the location and construction of transit facilities, without liability to it or its agents or employees except for actual damage done;

(W) On its own motion, may request the appropriate zoning board, as defined in section 4563.03 of the Revised Code, to establish and enforce zoning regulations pertaining to any transit facility under its jurisdiction in the manner prescribed by sections 4563.01 to 4563.21 of the Revised Code;

(X) If it acquires any existing transit system, shall assume all the employer's obligations under any existing labor contract between the employees and management of the system. If the board acquires, constructs, controls, or operates any such facilities, it shall negotiate arrangements to protect the interests of employees affected by the acquisition, construction, control, or operation. The arrangements shall include, but are not limited to:

(1) The preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise, the preservation of rights and benefits under any existing pension plans covering prior service, and continued participation in social security in addition to participation in the public employees retirement system as required in Chapter 145. of the Revised Code;

(2) The continuation of collective bargaining rights;

(3) The protection of individual employees against a worsening of their positions with respect to their employment;

(4) Assurances of employment to employees of those transit systems and priority reemployment of employees terminated or laid off;

(5) Paid training or retraining programs;

(6) Signed written labor agreements.

The arrangements may include provisions for the submission of labor disputes to final and binding arbitration.

(Y) May provide for and maintain security operations, including a transit police department, subject to section 306.352 of the Revised Code. Regional transit authority police officers shall have the power and duty to act as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Regional transit authority police officers also shall have the power and duty to act as peace officers when they render emergency assistance outside their jurisdiction to any other peace officer who is not a regional transit authority police officer and who has arrest authority under section 2935.03 of the Revised Code. Regional transit authority police officers may render emergency assistance if there is a threat of imminent physical danger to the peace officer, a threat of physical harm to another person, or any other serious emergency situation and if either the

peace officer who is assisted requests emergency assistance or it appears that the peace officer who is assisted is unable to request emergency assistance and the circumstances observed by the regional transit authority police officer reasonably indicate that emergency assistance is appropriate.

Before exercising powers of arrest and the other powers and duties of a peace officer, each regional transit authority police officer shall take an oath and give bond to the state in a sum that the board of trustees prescribes for the proper performance of the officer's duties.

Persons employed as regional transit authority police officers shall complete training for the position to which they have been appointed as required by the Ohio peace officer training commission as authorized in section 109.77 of the Revised Code, or be otherwise qualified. The cost of the training shall be provided by the regional transit authority.

(Z) May procure a policy or policies insuring members of its board of trustees against liability on account of damages or injury to persons and property resulting from any act or omission of a member in the member's official capacity as a member of the board or resulting solely out of the member's membership on the board;

(AA) May enter into any agreement for the sale and leaseback or lease and leaseback of transit facilities, which agreement may contain all necessary covenants for the security and protection of any lessor or the regional transit authority including, but not limited to, indemnification of the lessor against the loss of anticipated tax benefits arising from acts, omissions, or misrepresentations of the regional transit authority. In connection with that transaction, the regional transit authority may contract for insurance and letters of credit and pay any premiums or other charges for the insurance and letters of credit. The fiscal officer shall not be required to furnish any certificate under section 5705.41 of the Revised Code in connection with the execution of any such agreement.

(BB) In regard to any contract entered into on or after March 19, 1993, for the rendering of services or the supplying of materials or for the construction, demolition, alteration, repair, or reconstruction of transit facilities in which a bond is required for the faithful performance of the contract, may permit the person awarded the contract to utilize a letter of credit issued by a bank or other financial institution in lieu of the bond;

(CC) May enter into agreements with municipal corporations located within the territorial jurisdiction of the regional transit authority permitting regional transit authority police officers employed under division (Y) of this section to exercise full arrest powers, as provided in section 2935.03 of the Revised Code, for the purpose of preserving the peace and enforcing all

laws of the state and ordinances and regulations of the municipal corporation within the areas that may be agreed to by the regional transit authority and the municipal corporation.

Sec. 306.99. (A) No person shall violate any rule or regulation adopted pursuant to division (N) of section 306.04 of the Revised Code and whoever violates such a rule or regulation shall be fined not more than one thousand dollars or imprisoned not more than ninety days or both.

(B) Whoever violates division (D)(4) of section 306.35 of the Revised Code shall be fined not more than one hundred dollars on a first offense and not more than five hundred dollars on each subsequent offense.

Fines levied and collected for such violations shall be paid into the treasury of the regional transit authority. The regional transit authority may use such fine money for any purpose that is not inconsistent with sections 306.30 to 306.54 of the Revised Code.

Sec. 307.676. (A) As used in this section:

(1) "Food and beverages" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption, including ice, water, spirituous liquors, wine, mixed beverages, beer, soft drinks, soda, and other beverages.

(2) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(3) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(B) The legislative authority of a county with a population of one million or more according to the most recent federal decennial census may, by resolution adopted on or before August 30, 2004, by a majority of the members of the legislative authority and with the subsequent approval of a majority of the electors of the county voting upon it, levy a tax of not more than two per cent on every retail sale in the county of food and beverages to be consumed on the premises where sold to pay the expenses of administering the tax and to provide revenues for the county general fund. Such resolution shall direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections, and such resolution may further direct the board of elections to include upon the ballot submitted to the electors any specific purposes for which the tax will be used. The legislative authority shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax and may provide for imposition of a penalty.

interest, or both for late payments, provided that any such penalty may not exceed ten per cent of the amount of tax due and the rate at which interest accrues may not exceed the rate per annum required under section 5703.47 of the Revised Code.

(C) A tax levied under this section shall remain in effect for the period of time specified in the resolution or ordinance levying the tax, but in no case for a longer period than forty years.

(D) A tax levied under this section is in addition to any other tax levied under Chapter 307., 4301., 4305., 5739., 5741., or any other chapter of the Revised Code. "Price," as defined in sections 5739.01 and 5741.01 of the Revised Code, does not include any tax levied under this section and any tax levied under this section does not include any tax imposed under Chapter 5739. or 5741. of the Revised Code.

(E)(1) No amount collected from a tax levied under this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (E)(1) of this section.

(2)(a) No amount collected from a tax levied under this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county directing the board of elections to submit the question of the levy, extension, or increase to the electors of the county, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (E)(2)(a) of this section be used

only for the direct and indirect costs of capital improvements in accordance with the agreement, including the financing of capital improvements. Immediately following the execution of the agreement, the county shall:

(i) In accordance with section 7.12 of the Revised Code, cause the agreement to be published at least once in a newspaper of general circulation in that county; or

(ii) Post the agreement in at least five public places in the county, as determined by the legislative authority, for a period not less than fifteen days.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement described in division (E)(2)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(F) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied under this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

(G) The levy of any taxes under Chapter 5739. of the Revised Code on the same transactions subject to a tax under this section does not prevent the levy of a tax under this section.

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser, by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of ~~fifteen~~ twenty-five thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 125.04, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when any of the following applies:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists, and that determination and the reasons for it are entered in the minutes of

the proceedings of the board, when either of the following applies:

- (1) The estimated cost is less than fifty thousand dollars.
- (2) There is actual physical disaster to structures, radio communications equipment, or computers.

For purposes of this division, "unanimous vote" means all three members of a board of county commissioners when all three members are present, or two members of the board if only two members, constituting a quorum, are present.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is ~~fifteen~~ twenty-five thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited. The county or contracting authority shall maintain the record for the longer of at least one year after the contract is awarded or the amount of time the federal government requires.

(B)(1) The purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the county, and the only source of supply for the supplies, part, or parts is limited to a single supplier.

(2) The purchase consists of services related to information technology, such as programming services, that are proprietary or limited to a single source.

(C) The purchase is from the federal government, the state, another county or contracting authority of another county, or a board of education, township, or municipal corporation.

~~(D) Public~~ The purchase is made by a county department of job and family services under section 329.04 of the Revised Code and consists of family services duties or workforce development activities ~~are purchased for provision by the county department of job and family services under section 329.04 of the Revised Code, or is made by a county board of mental retardation and developmental disabilities under section 5126.05 of the Revised Code and consists of program services, such as direct and ancillary client services, child day-care, case management services, residential services, and family resource services, are purchased for provision by a county board of mental retardation and developmental disabilities under section 5126.05 of the Revised Code.~~

(E) The purchase consists of criminal justice services, social services programs, family services, or workforce development activities by the board of county commissioners from nonprofit corporations or associations under programs funded by the federal government or by state grants.

(F) The purchase consists of any form of an insurance policy or contract authorized to be issued under Title XXXIX of the Revised Code or any form of health care plan authorized to be issued under Chapter 1751. of the Revised Code, or any combination of such policies, contracts, or plans that the contracting authority is authorized to purchase, and the contracting authority does all of the following:

(1) Determines that compliance with the requirements of this section would increase, rather than decrease, the cost of the purchase;

(2) Employs a competent consultant to assist the contracting authority in procuring appropriate coverages at the best and lowest prices;

(3) Requests issuers of the policies, contracts, or plans to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of the policies, contracts, or plans as the contracting authority desires to purchase;

(4) Negotiates with the issuers for the purpose of purchasing the policies, contracts, or plans at the best and lowest price reasonably possible.

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.

(H) Child day-care services are purchased for provision to county employees.

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes, and all of the following apply:

(a) The contracting authority is authorized by the Revised Code to lease the property.

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property.

(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code.

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections 5139.41 to 5139.46 of the Revised Code and is of programs or services that provide case management, treatment, or prevention services to any felony or misdemeanor delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, community residential care, day treatment, services to children in their home, or electronic monitoring.

(K) The purchase is made by a public children services agency pursuant to section 307.92 or 5153.16 of the Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children.

Any issuer of policies, contracts, or plans listed in division (F) of this section and any prospective lessor under division (I) of this section may have the issuer's or prospective lessor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority that name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of that action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and renegotiate with issuers in accordance with that division at least every three years from the date of the signing of such a contract.

Any consultant employed pursuant to division (F) of this section and any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 307.87. Where competitive bidding is required by section 307.86 of

the Revised Code, notice thereof shall be given in the following manner:

(A) Notice shall be published once a week for not less than two consecutive weeks preceding the day of the opening of bids in a newspaper of general circulation within the county for any purchase, lease, lease with option or agreement to purchase, or construction contract in excess of ~~ten~~ twenty-five thousand dollars. The contracting authority may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the contracting authority's internet site on the world wide web. If the contracting authority posts the notice on that location on the world wide web, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the county, provided that the first notice published in such a newspaper meets all of the following requirements:

(1) It is published at least two weeks before the opening of bids.

(2) It includes a statement that the notice is posted on the contracting authority's internet site on the world wide web.

(3) It includes the internet address of the contracting authority's internet site on the world wide web.

(4) It includes instructions describing how the notice may be accessed on the contracting authority's internet site on the world wide web.

(B) Notices shall state all of the following:

(1) A general description of the subject of the proposed contract and the time and place where the plans and specifications or itemized list of supplies, facilities, or equipment and estimated quantities can be obtained or examined;

(2) The time and place where bids will be opened;

(3) The time and place for filing bids;

(4) The terms of the proposed purchase;

(5) Conditions under which bids will be received;

(6) The existence of a system of preference, if any, for products mined and produced in Ohio and the United States adopted pursuant to section 307.90 of the Revised Code.

~~(B)~~(C) The contracting authority shall also maintain in a public place in its office or other suitable public place a bulletin board upon which it shall post and maintain a copy of such notice for at least two weeks preceding the day of the opening of the bids.

Sec. 307.93. (A) The boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or

the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The center shall augment county and, where applicable, municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the sheriff of any of the contracting counties or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility who, in the opinion of the sentencing court, need programs of custody and rehabilitation not available at the county or municipal jail and by providing custody and rehabilitative programs in accordance with division (C) of this section, if applicable. The contract may include, but need not be limited to, provisions regarding the acquisition, construction, maintenance, repair, termination of operations, and administration of the center. The contract shall prescribe the manner of funding of, and debt assumption for, the center and the standards and procedures to be followed in the operation of the center. Except as provided in division (H) of this section, the contracting counties and municipal corporations shall form a corrections commission to oversee the administration of the center. Members of the commission shall consist of the sheriff of each participating county, the president of the board of county commissioners of each participating county, the presiding judge of the court of common pleas of each participating county, or, if the court of common pleas of a participating county has only one judge, then that judge, the chief of police of each participating municipal corporation, the mayor or city manager of each participating municipal corporation, and the presiding judge or the sole judge of the municipal court of each participating municipal corporation. Any of the foregoing officers may appoint a designee to serve in the officer's place on the corrections commission. The standards and procedures shall be formulated and agreed to by the commission and may be amended at any time during the life of the contract by agreement of the parties to the contract upon the advice of the commission. The standards and procedures formulated by the commission shall include, but need not be limited to, designation of the person in charge of the center, the categories of employees to be employed at the center, the appointing authority of the center, and the standards of treatment and security to be maintained at the center. The person in charge of, and all persons employed to work at, the center shall have all the powers of police officers that are necessary for the proper performance of the duties relating to their positions at the center.

(B) Each board of county commissioners that enters a contract under division (A) of this section may appoint a building commission pursuant to section 153.21 of the Revised Code. If any commissions are appointed, they shall function jointly in the construction of a multicounty or multicounty-municipal correctional center with all the powers and duties authorized by law.

(C) Prior to the acceptance for custody and rehabilitation into a center established under this section of any persons who are designated by the department of rehabilitation and correction, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in section 5120.161 of the Revised Code, the corrections commission of a center established under this section shall enter into an agreement with the department of rehabilitation and correction under section 5120.161 of the Revised Code for the custody and rehabilitation in the center of persons who are designated by the department, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in that section, in exchange for a per diem fee per person. Persons incarcerated in the center pursuant to an agreement entered into under this division shall be subject to supervision and control in the manner described in section 5120.161 of the Revised Code. This division does not affect the authority of a court to directly sentence a person who is convicted of or pleads guilty to a felony to the center in accordance with section 2929.16 of the Revised Code.

(D) Pursuant to section 2929.37 of the Revised Code, each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract under division (A) of this section may require a person who was convicted of an offense, who is under the charge of the sheriff of their county or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility, and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center as provided in that division, to reimburse the applicable county or municipal corporation for its expenses incurred by reason of the person's confinement in the center.

(E) Notwithstanding any contrary provision in this section or section 2929.18, 2929.21, 2929.36, or 2929.37 of the Revised Code, the corrections commission of a center may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center to pay a reception fee, a fee for

medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.

(F)(1) The corrections commission of a center established under this section may establish a commissary for the center. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the center shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the center's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the center of necessary hygiene articles and writing materials.

(2) If a commissary is established, the corrections commission of a center established under this section shall establish a commissary fund for the center. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the center and to pay salary and benefits for employees of the center, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The corrections commission shall adopt rules and regulations for the operation of any commissary fund it establishes.

(G) In lieu of forming a corrections commission to administer a multicounty correctional center or a municipal-county or multicounty-municipal correctional center, the boards of county commissioners and the legislative authorities of the municipal corporations contracting to establish the center may also agree to contract for the private operation and management of the center as provided in section 9.06 of the Revised Code, but only if the center houses only misdemeanor inmates. In order to enter into a contract under section 9.06 of the Revised Code, all the boards and legislative authorities establishing the center shall approve and be parties to the contract.

(H) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center or is incarcerated in the center in the manner described in division (C) of this section, or if a person who is arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined

in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center pending trial, at the time of reception and at other times the officer, officers, or other person in charge of the operation of the center determines to be appropriate, the officer, officers, or other person in charge of the operation of the center may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The officer, officers, or other person in charge of the operation of the center may cause a convicted or accused offender in the center who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(I) As used in this section, "multicounty-municipal" means more than one county and a municipal corporation, or more than one municipal corporation and a county, or more than one municipal corporation and more than one county.

Sec. 307.98. ~~Each board~~ Boards of county commissioners ~~shall~~ may enter into a one or more written ~~partnership agreement~~ fiscal agreements with the director of job and family services in accordance with section 5101.21 of the Revised Code. ~~Prior to entering into or substantially amending the agreement, the board shall conduct a public hearing and consult with the county family services planning committee established under section 329.06 of the Revised Code. Through the hearing and consultation, the board shall obtain comments and recommendations concerning what would be the county's obligations and responsibilities under the agreement or amendment. As evidence that the board consulted with the county family services planning committee, the committee's chair shall sign a letter confirming that the consultation occurred, which shall be attached to the partnership agreement and any substantial amendments to the agreement. If a board enters into a fiscal agreement, the board shall enter into the agreement on behalf of the county family services agencies, other than a county family services agency that is a county signer as defined in section 5101.21 of the Revised Code.~~

Sec. 307.981. (A)(1) As used in the Revised Code:

(a) "County family services agency" means all of the following:

- (i) A child support enforcement agency;
- (ii) A county department of job and family services;
- (iii) A public children services agency.

(b) "Family services duty" means a duty state law requires or allows a county family services agency to assume, including financial and general

administrative duties. "Family services duty" does not include a duty funded by the United States department of labor.

(2) As used in sections 307.981 to 307.989 of the Revised Code, "private entity" means an entity other than a government entity.

(B) To the extent permitted by federal law, including, when applicable, subpart F of 5 C.F.R. part 900, and subject to any limitations established by the Revised Code, including division (H) of this section, a board of county commissioners may designate any private or government entity within this state to serve as any of the following:

- (1) A child support enforcement agency;
- (2) A county department of job and family services;
- (3) A public children services agency;
- (4) A county department of job and family services and one other of those county family services agencies;
- (5) All three of those county family services agencies;
- ~~(6) A workforce development agency;~~
- ~~(7) A workforce development agency and a county department of job and family services;~~
- ~~(8) A workforce development agency and a county department of job and family services and one or two of the other county family services agencies.~~

(C) A To the extent permitted by federal law, including, when applicable, subpart F of 5 C.F.R. part 900, and subject to any limitations of the Revised Code, including division (H) of this section, a board of county commissioners may change the designation it makes under division (B) of this section by designating another private or government entity.

(D) ~~If the director of job and family services determines that a designation under division (B) or (C) of this section constitutes a substantial change from what is the designation in the current partnership a fiscal agreement between the director of job and family services and the board of county commissioners under section 5101.21 of the Revised Code, the director may require that the director and board amend the partnership fiscal agreement and that the board provide the director written assurances that the newly designated private or government entity will meet or exceed all requirements of the family services duties or workforce development activities the entity is to assume.~~

(E) Not less than sixty days before a board of county commissioners designates an entity under division (B) or (C) of this section, the board shall notify the director of job and family services and publish notice in a newspaper of general circulation in the county of the board's intention to

make the designation and reasons for the designation.

(F) A board of county commissioners shall enter into a written contract with each entity it designates under division (B) or (C) of this section specifying the entity's responsibilities and standards the entity is required to meet.

(G) This section does not require a board of county commissioners to abolish the child support enforcement agency, county department of job and family services, or public children services agency serving the county on October 1, 1997, and designate a different private or government entity to serve as the county's child support enforcement agency, county department of job and family services, or public children services agency.

(H) If a county children services board appointed under section 5153.03 of the Revised Code serves as a public children services agency for a county, the board of county commissioners may not redesignate the public children services agency unless the board of county commissioners does all of the following:

(1) Notifies the county children services board of its intent to redesignate the public children services agency. In its notification, the board of county commissioners shall provide the county children services board a written explanation of the administrative, fiscal, or performance considerations causing the board of county commissioners to seek to redesignate the public children services agency.

(2) Provides the county children services board an opportunity to comment on the proposed redesignation before the redesignation occurs;

(3) If the county children services board, not more than sixty days after receiving the notice under division (H)(1) of this section, notifies the board of county commissioners that the county children services board has voted to oppose the redesignation, votes unanimously to proceed with the redesignation.

Sec. 307.987. To the extent federal ~~statutes and regulations~~ and state law permit, ~~a partnership agreement entered into under section 307.98~~, a contract entered into under section 307.981 or 307.982, a plan of cooperation entered into under section 307.983, a regional plan of cooperation entered into under section 307.984, a transportation work plan developed under section 307.985, and procedures established under section 307.986 of the Revised Code shall permit the exchange of information needed to improve services and assistance to individuals and families and the protection of children. A private or government entity that receives information pursuant to ~~an agreement~~, a contract, plan, or procedures is bound by the same standards of confidentiality as the entity that provides the

information.

~~An agreement,~~ A contract, plan, or procedures shall:

(A) Be coordinated and not conflict with another ~~agreement,~~ contract, plan, or procedures or an agreement entered into under section 329.05 of the Revised Code;

(B) Prohibit discrimination in hiring and promotion against applicants for and participants of the Ohio works first program established under Chapter 5107. of the Revised Code and the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(C) Comply with federal ~~statutes and regulations~~ and state law;

(D) Be adopted by resolution of a board of county commissioners;

(E) Specify how the ~~agreement,~~ contract, plan, or procedures may be amended.

Sec. 311.17. For the services specified in this section, the sheriff shall charge the following fees, which the court or its clerk ~~thereof~~ shall tax in the bill of costs against the judgment debtor or those legally liable therefor for the judgment:

(A) For the service and return of the following writs and orders:

(1) Execution:

(a) When money is paid without levy or when no property is found, ~~five~~ twenty dollars;

(b) When levy is made on real property, for the first tract, ~~twenty~~ twenty-five dollars, and for each additional tract, ~~five~~ ten dollars;

(c) When levy is made on goods and chattels, including inventory, ~~twenty-five~~ fifty dollars;

(2) Writ of attachment of property, except for purpose of garnishment, ~~twenty~~ forty dollars;

(3) Writ of attachment for the purpose of garnishment, ~~five~~ ten dollars;

(4) Writ of replevin, ~~twenty~~ forty dollars;

(5) Warrant to arrest, for each person named in the writ, ~~five~~ ten dollars;

(6) Attachment for contempt, for each person named in the writ, ~~three~~ six dollars;

(7) Writ of possession or restitution, ~~twenty~~ sixty dollars;

(8) Subpoena, for each person named in the writ, if in either a civil or criminal case ~~three, six~~ dollars, if in a criminal case one dollar;

(9) Venire, for each person named in the writ, if in either a civil or criminal case ~~three, six~~ dollars, if in a criminal case one dollar;

(10) Summoning each juror, other than on venire, if in either a civil or criminal case ~~three, six~~ dollars, if in a criminal case one dollar;

(11) Writ of partition, ~~fifteen~~ twenty-five dollars;

(12) Order of sale on partition, for the first tract, ~~twenty-five~~ fifty dollars, and for each additional tract, ~~five~~ twenty-five dollars;

(13) Other order of sale of real property, for the first tract, ~~twenty~~ fifty dollars, and for each additional tract, ~~five~~ twenty-five dollars;

(14) Administering oath to appraisers, ~~one-dollar and fifty cents~~ three dollars each;

(15) Furnishing copies for advertisements, ~~fifty cents~~ one dollar for each hundred words;

(16) Copy of indictment, for each defendant, ~~two~~ five dollars;

(17) All summons, writs, orders, or notices, for the first name, ~~three~~ six dollars, and for each additional name, ~~fifty cents~~ one dollar.

(B) In addition to the fee for service and return, ~~the sheriff may charge:~~

(1) On each summons, writ, order, or notice, a fee of ~~fifty cents~~ one dollar per mile for the first mile, and ~~twenty~~ fifty cents per mile for each additional mile, going and returning, actual mileage to be charged on each additional name;

(2) Taking bail bond, ~~one-dollar~~ three dollars;

(3) Jail fees, as follows:

(a) For receiving a prisoner, ~~four~~ five dollars each time a prisoner is received, and for discharging or surrendering a prisoner, ~~four~~ five dollars; each time a prisoner is discharged or surrendered. The departure or return of a prisoner from or to a jail in connection with a program established under section 5147.28 of the Revised Code is not a receipt, discharge, or surrender of the prisoner for purposes of this division.

(b) Taking a prisoner before a judge or court, per day, ~~three~~ five dollars;

(c) Calling action, ~~fifty cents~~ one dollar;

(d) Calling jury, ~~one-dollar~~ three dollars;

(e) Calling each witness, ~~one-dollar~~ three dollars;

(f) Bringing prisoner before court on habeas corpus, ~~four~~ six dollars;

(4) Poundage on all moneys actually made and paid to the sheriff on execution, decree, or sale of real estate, one and one-half per cent;

(5) Making and executing a deed of land sold on execution, decree, or order of the court, to be paid by the purchaser, ~~twenty-five~~ fifty dollars.

When any of the ~~foregoing~~ services described in division (A) or (B) of this section are rendered by an officer or employee, whose salary or per diem compensation is paid by the county, the applicable legal fees and any other extraordinary expenses, including overtime, provided for ~~such the service in this section~~ shall be taxed in the costs in the case; and, when ~~such fees are collected they~~, shall be paid into the general fund of the county.

The sheriff shall charge the same fees for the execution of process

issued in any other state as ~~he~~ the sheriff charges for the execution of process of a substantively similar nature that is issued in this state.

Sec. 317.32. The county recorder shall charge and collect the following fees, to include base fees for the recorder's services and housing trust fund fees, collected pursuant to section 317.36 of the Revised Code:

(A) For recording and indexing an instrument when the photocopy or any similar process is employed, a base fee of fourteen dollars for the first two pages and a housing trust fund fee of fourteen dollars, and a base fee of four dollars and a housing trust fund fee of four dollars for each subsequent page, size eight and one-half inches by fourteen inches, or fraction of a page, including the caption page, of such instrument;

(B) For certifying a photocopy from the record previously recorded, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction of a page; for each certification where the recorder's seal is required, except as to instruments issued by the armed forces of the United States, a base fee of fifty cents and a housing trust fund fee of fifty cents;

(C) For manual or typewritten recording of assignment or satisfaction of mortgage or lease or any other marginal entry, a base fee of four dollars and a housing trust fund fee of four dollars;

(D) For entering any marginal reference by separate recorded instrument, a base fee of two dollars and a housing trust fund fee of two dollars for each marginal reference set out in that instrument, in addition to the ~~recording fee fees~~ set forth in division (A) of this section;

(E) For indexing in the real estate mortgage records, pursuant to section 1309.519 of the Revised Code, financing statements covering crops growing or to be grown, timber to be cut, minerals or the like, including oil and gas, accounts subject to section 1309.301 of the Revised Code, or fixture filings made pursuant to section 1309.334 of the Revised Code, a base fee of two dollars and a housing trust fund fee of two dollars for each name indexed;

(F) For recording manually any plat not exceeding six lines, a base fee of two dollars and a housing trust fund fee of two dollars, and for each additional line, a base fee of ten cents and a housing trust fund fee of ten cents;

(G) For filing zoning resolutions, including text and maps, in the office of the recorder as required under sections 303.11 and 519.11 of the Revised Code, a base fee of fifty dollars and a housing trust fund fee of fifty dollars, regardless of the size or length of the resolutions;

(H) For filing zoning amendments, including text and maps, in the office of the recorder as required under sections 303.12 and 519.12 of the

Revised Code, a base fee of ten dollars and a housing trust fund fee of ten dollars for the first page and a base fee of four dollars and a housing trust fund fee of four dollars for each additional page;

(I) For photocopying a document, other than at the time of recording and indexing as provided for in division (A) of this section, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(J) For local facsimile transmission of a document, a base fee of one dollar and a housing trust fund fee of one dollar per page, size eight and one-half inches by fourteen inches, or fraction thereof; for long distance facsimile transmission of a document, a base fee of two dollars and a housing trust fund fee of two dollars per page, size eight and one-half inches by fourteen inches, or fraction thereof;

(K) For recording a declaration executed pursuant to section 2133.02 of the Revised Code or a durable power of attorney for health care executed pursuant to section 1337.12 of the Revised Code, or both a declaration and a durable power of attorney for health care, a base fee of at least fourteen dollars but not more than twenty dollars and a housing trust fund fee of at least fourteen dollars but not more than twenty dollars.

In any county in which the recorder employs the photostatic or any similar process for recording maps, plats, or prints the recorder shall determine, charge, and collect for the recording or rerecording of any map, plat, or print, a base fee of five cents and a housing trust fund fee of five cents per square inch, for each square inch of the map, plat, or print filed for that recording or rerecording, with a minimum base fee of twenty dollars and a minimum housing trust fund fee of twenty dollars; for certifying a copy from the record, a base fee of two cents and a housing trust fund fee of two cents per square inch of the record, with a minimum base fee of two dollars and a minimum housing trust fund fee of two dollars.

The fees provided in this section shall be paid upon the presentation of the instruments for record or upon the application for any certified copy of the record, except that the payment of fees associated with the filing and recording of, or the copying of, notices of internal revenue tax liens and notices of other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code and certificates of discharge or release of those liens, shall be governed by section 317.09 of the Revised Code, and the payment of fees for providing copies of instruments conveying or extinguishing agricultural easements to the office of farmland preservation in the department of agriculture under division (G) of section 5301.691 of the Revised Code shall be governed by that division.

Sec. 317.36. (A) The county recorder shall collect the low- and moderate-income housing trust fund fee as specified in sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code. The amount of any housing trust fund fee the recorder is authorized to collect is equal to the amount of any base fee the recorder is authorized to collect for services. The housing trust fund fee shall be collected in addition to the base fee.

(B) The recorder shall certify the amounts collected as housing trust fund fees pursuant to division (A) of this section into the county treasury as housing trust fund fees to be paid to the treasurer of state pursuant to section 319.63 of the Revised Code.

Sec. 319.63. (A) During the first thirty days of each calendar quarter, the county auditor shall pay to the treasurer of state all amounts that the county recorder collected as housing trust fund fees pursuant to section 317.36 of the Revised Code during the previous calendar quarter. If payment is made to the treasurer of state within the first thirty days of the quarter, the county auditor may retain an administrative fee of one per cent of the amount of the trust fund fees collected during the previous calendar quarter.

(B) The treasurer of state shall deposit the first fifty million dollars of housing trust fund fees received each year pursuant to this section into the low- and moderate-income housing trust fund, created under section 175.21 of the Revised Code, and shall deposit any amounts received each year in excess of fifty million dollars into the state general revenue fund.

(C) The county auditor shall deposit the administrative fee that the auditor is permitted to retain pursuant to division (A) of this section into the county general fund for the county recorder to use in administering the trust fund fee.

Sec. 321.24. (A) On or before the fifteenth day of February, in each year, the county treasurer shall settle with the county auditor for all taxes and assessments that the treasurer has collected on the general duplicate of real and public utility property at the time of making the settlement.

(B) On or before the thirtieth day of June, in each year, the treasurer shall settle with the auditor for all advance payments of general personal and classified property taxes that the treasurer has received at the time of making the settlement.

(C) On or before the tenth day of August, in each year, the treasurer shall settle with the auditor for all taxes and assessments that the treasurer has collected on the general duplicates of real and public utility property at the time of making such settlement, not included in the preceding February

settlement.

(D) On or before the thirty-first day of October, in each year, the treasurer shall settle with the auditor for all taxes that the treasurer has collected on the general personal and classified property duplicates, and for all advance payments of general personal and classified property taxes, not included in the preceding June settlement, that the treasurer has received at the time of making such settlement.

(E) In the event the time for the payment of taxes is extended, pursuant to section 323.17 of the Revised Code, the date on or before which settlement for the taxes so extended must be made, as herein prescribed, shall be deemed to be extended for a like period of time. At each such settlement, the auditor shall allow to the treasurer, on the moneys received or collected and accounted for by the treasurer, the treasurer's fees, at the rate or percentage allowed by law, at a full settlement of the treasurer.

(F) Within thirty days after the day of each settlement of taxes required under divisions (A) and (C) of this section, the treasurer shall certify to the tax commissioner any adjustments which have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the preceding tax year under section 319.302 of the Revised Code, less one-half of the amount computed for all taxing districts in that county for the current fiscal year under section 5703.80 of the Revised Code for crediting to the property tax administration fund. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges which the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as real property taxes. The amount distributed to each taxing district shall be reduced by the total of the amounts computed for the district under divisions (A), (B), and (C) of section 5703.80 of the Revised Code, but the reduction shall not exceed the amount that otherwise would be distributed to the taxing district under this division. The tax commissioner shall make available to taxing districts such information as is sufficient for a taxing district to be able to determine the amount of the reduction in its distribution under this section.

(G)(1) Within thirty days after the day of the settlement required in division (D) of this section, the county treasurer shall ~~certify to~~ notify the tax commissioner that the settlement has been completed. Upon receipt of that ~~certification~~ notification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to the amount certified under former section 319.311 of the Revised Code in the current year and paid in the state's fiscal year 2003 multiplied by the percentage specified in division (G)(2) of this section. The payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall distribute the amount thereof among the various taxing districts of the county as if it had been levied, collected, and settled as personal property taxes. The amount received by a taxing district under this division shall be apportioned among its funds in the same proportion as the current year's personal property taxes are apportioned.

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:

- (a) In fiscal year 2004, ninety per cent;
- (b) In fiscal year 2005, eighty per cent;
- (c) In fiscal year 2006, seventy per cent;
- (d) In fiscal year 2007, sixty per cent;
- (e) In fiscal year 2008, fifty per cent;
- (f) In fiscal year 2009, forty per cent;
- (g) In fiscal year 2010, thirty per cent;
- (h) In fiscal year 2011, twenty per cent;
- (i) In fiscal year 2012, ten per cent.

After fiscal year 2012, no payments shall be made under division (G)(1) of this section.

(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.

(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like

period of time.

Sec. 323.01. Except as otherwise provided, as used in Chapter 323. of the Revised Code:

(A) "Subdivision" means any county, township, school district, or municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and interest charged pursuant to section 323.121 of the Revised Code; charges added pursuant to section 319.35 of the Revised Code; and all of such charges which remain unpaid from any previous tax year.

(D) "Current taxes" means all taxes charged against an entry on the general tax list and duplicate of real and public utility property that have not appeared on such list and duplicate for any prior tax year and any penalty thereon charged by division (A) of section 323.121 of the Revised Code. Current taxes, whether or not they have been certified delinquent, become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty.

(E) "Delinquent taxes" means:

(1) Any taxes charged against an entry on the general tax list and duplicate of real and public utility property that were charged against an entry on such list and duplicate for a prior tax year and any penalties and interest charged against such taxes.

(2) Any current taxes charged on the general tax list and duplicate of real and public utility property that remain unpaid after the last day prescribed for payment of the second installment of such taxes without penalty, whether or not they have been certified delinquent, and any penalties and interest charged against such taxes.

(F) "Current tax year" means, with respect to particular taxes, the calendar year in which the first installment of taxes is due prior to any extension granted under section 323.17 of the Revised Code.

(G) "Liquidated claim" means:

(1) Any sum of money due and payable, upon a written contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

(2) Any sum of money due and payable, for disability financial

assistance or disability medical assistance provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

Sec. 323.13. Except as provided in section 323.134 of the Revised Code, immediately upon receipt of any tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in section 323.12 or 323.17 of the Revised Code, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on such duplicate with taxes or to an agent designated by such person, the tax bill prescribed by the commissioner of tax equalization under section 323.131 of the Revised Code. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by such person, a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period.

After delivery of the delinquent land duplicate as prescribed in section 5721.011 of the Revised Code, the county treasurer may prepare and mail to each person in whose name property therein is listed an additional tax bill showing the total amount of delinquent taxes appearing on such duplicate against such property. The tax bill shall include a notice that the interest charge prescribed by division (B) of section 323.121 of the Revised Code has begun to accrue.

A change in the mailing address of any tax bill shall be made in writing to the county treasurer.

Upon certification by the county auditor of the apportionment of taxes following the transfer of a part of a tract or lot of real estate, and upon request by the owner of any transferred or remaining part of such tract or parcel, the treasurer shall cause to be prepared and mailed or delivered to such owner a tax bill for the taxes allocated to ~~his~~ the owner's part, together with the penalties, interest, and other charges.

Failure to receive any bill required by this section does not excuse failure or delay to pay any taxes shown on such bill or, except as provided in division ~~(A)~~(B)(1) of section 5715.39 of the Revised Code, avoid any

penalty, interest, or charge for such delay.

Sec. 325.31. (A) On the first business day of each month, and at the end of the officer's term of office, each officer named in section 325.27 of the Revised Code shall pay into the county treasury, to the credit of the general county fund, on the warrant of the county auditor, all fees, costs, penalties, percentages, allowances, and perquisites collected by the officer's office during the preceding month or part thereof for official services, except the fees allowed the county auditor by division (B) of section 319.54 of the Revised Code, which shall be paid into the county treasury to the credit of the real estate assessment fund hereby created.

(B) Moneys to the credit of the real estate assessment fund may be expended, upon appropriation by the board of county commissioners, for the purpose of defraying ~~the one or more of the following~~:

(1) The cost incurred by the county auditor in assessing real estate pursuant to Chapter 5713. of the Revised Code and manufactured and mobile homes pursuant to Chapter 4503. of the Revised Code, and, at:

(2) At the county auditor's discretion, costs and expenses incurred by the county auditor in preparing the list of real and public utility property, in administering laws related to the taxation of real property and the levying of special assessments on real property, including administering reductions under Chapters 319. and 323. and section 4503.065 of the Revised Code, and to support assessments of real property in any administrative or judicial proceeding;

(3) At the county auditor's discretion, the expenses incurred by the county board of revision under Chapter 5715. of the Revised Code. ~~Any;~~

(4) At the county auditor's discretion, the expenses incurred by the county auditor for geographic information systems, mapping programs, and technological advances in those or similar systems or programs;

(5) At the county auditor's discretion, expenses incurred by the county auditor in compiling the general tax list of tangible personal property and administering tangible personal property taxes under Chapters 5711. and 5719. of the Revised Code;

(6) At the county auditor's discretion, costs, expenses, and fees incurred by the county auditor in the administration of estate taxes under Chapter 5731. of the Revised Code.

Any expenditures made from the real estate assessment fund shall comply with rules that the tax commissioner adopts under division (O) of section 5703.05 of the Revised Code. Those rules shall include a requirement that a copy of any appraisal plans, progress of work reports, contracts, or other documents required to be filed with the tax commissioner

shall be filed also with the board of county commissioners.

The board of county commissioners shall not transfer moneys required to be deposited in the real estate assessment fund to any other fund. Following an assessment of real property pursuant to Chapter 5713. of the Revised Code, or an assessment of a manufactured or mobile home pursuant to Chapter 4503. of the Revised Code, any moneys not expended for the purpose of defraying the cost incurred in assessing real estate or manufactured or mobile homes or for the purpose of defraying the expenses ~~of the county board of revision described in divisions (B)(2), (3), (4), (5), and (6) of this section,~~ and thereby remaining to the credit of the real estate assessment fund, shall be apportioned ratably and distributed to those taxing authorities that contributed to the fund. However, no such distribution shall be made if the amount of such unexpended moneys remaining to the credit of the real estate assessment fund does not exceed five thousand dollars.

(C) None of the officers named in section 325.27 of the Revised Code shall collect any fees from the county. Each of such officers shall, at the end of each calendar year, make and file a sworn statement with the board of county commissioners of all such fees, costs, penalties, percentages, allowances, and perquisites which have been due in the officer's office and unpaid for more than one year prior to the date such statement is required to be made.

Sec. 329.03. (A) As used in this section:

(1) "Applicant" or "recipient" means an applicant for or participant in the Ohio works first program established under Chapter 5107. of the Revised Code or an applicant for or recipient of disability financial assistance under Chapter 5115. of the Revised Code.

(2) "Voluntary direct deposit" means a system established pursuant to this section under which cash assistance payments to recipients who agree to direct deposit are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.

(3) "Mandatory direct deposit" means a system established pursuant to this section under which cash assistance payments to all participants in the Ohio works first program or recipients of disability financial assistance, other than those exempt under division (E) of this section, are made by direct deposit by electronic transfer to an account in a financial institution designated under this section.

(B) A board of county commissioners may by adoption of a resolution require the county department of job and family services to establish a direct deposit system for distributing cash assistance payments under Ohio works first, disability financial assistance, or both, unless the director of job and

family services has provided for those payments to be made by electronic benefit transfer pursuant to section 5101.33 of the Revised Code. Voluntary or mandatory direct deposit may be applied to either of the programs. The resolution shall specify for each program for which direct deposit is to be established whether direct deposit is voluntary or mandatory. The board may require the department to change or terminate direct deposit by adopting a resolution to change or terminate it. Within ninety days after adopting a resolution under this division, the board shall certify one copy of the resolution to the director of job and family services and one copy to the office of budget and management. The director of job and family services may adopt rules governing establishment of direct deposit by county departments of job and family services.

The county department of job and family services shall determine what type of account will be used for direct deposit and negotiate with financial institutions to determine the charges, if any, to be imposed by a financial institution for establishing and maintaining such accounts. Under voluntary direct deposit, the county department of job and family services may pay all charges imposed by a financial institution for establishing and maintaining an account in which direct deposits are made for a recipient. Under mandatory direct deposit, the county department of job and family services shall pay all charges imposed by a financial institution for establishing and maintaining such an account. No financial institution shall impose any charge for such an account that the institution does not impose on its other customers for the same type of account. Direct deposit does not affect the exemption of Ohio works first and disability financial assistance from attachment, garnishment, or other like process afforded by sections 5107.75 and ~~5115.07~~ 5115.06 of the Revised Code.

(C) The county department of job and family services shall, within sixty days after a resolution requiring the establishment of direct deposit is adopted, establish procedures governing direct deposit.

Within one hundred eighty days after the resolution is adopted, the county department shall:

(1) Inform each applicant or recipient of the procedures governing direct deposit, including in the case of voluntary direct deposit those that prescribe the conditions under which a recipient may change from one method of payment to another;

(2) Obtain from each applicant or recipient an authorization form to designate a financial institution equipped for and authorized by law to accept direct deposits by electronic transfer and the account into which the applicant or recipient wishes the payments to be made, or in the case of

voluntary direct deposit states the applicant's or recipient's election to receive such payments in the form of a paper warrant.

The department may require a recipient to complete a new authorization form whenever the department considers it necessary.

A recipient's designation of a financial institution and account shall remain in effect until withdrawn in writing or dishonored by the financial institution, except that no change may be made in the authorization form until the next eligibility redetermination of the recipient unless the department feels that good grounds exist for an earlier change.

(D) An applicant or recipient without an account who either agrees or is required to receive payments by direct deposit shall have ten days after receiving the authorization form to designate an account suitable for direct deposit. If within the required time the applicant or recipient does not make the designation or requests that the department make the designation, the department shall designate a financial institution and help the recipient to open an account.

(E) At the time of giving an applicant or recipient the authorization form, the county department of job and family services of a county with mandatory direct deposit shall inform each applicant or recipient of the basis for exemption and the right to request exemption from direct deposit.

Under mandatory direct deposit, an applicant or recipient who wishes to receive payments in the form of a paper warrant shall record on the authorization form a request for exemption under this division and the basis for the exemption.

The department shall exempt from mandatory direct deposit any recipient who requests exemption and is any of the following:

- (1) Over age sixty-five;
- (2) Blind or disabled;
- (3) Likely, in the judgment of the department, to be caused personal hardship by direct deposit.

A recipient granted an exemption under this division shall receive payments for which the recipient is eligible in the form of paper warrants.

(F) The county department of job and family services shall bear the full cost of the amount of any replacement warrant issued to a recipient for whom an authorization form as provided in this section has not been obtained within one hundred eighty days after the later of the date the board of county commissioners adopts a resolution requiring payments of financial assistance by direct deposit to accounts of recipients of Ohio works first or disability financial assistance or the date the recipient made application for assistance, and shall not be reimbursed by the state for any part of the cost.

Thereafter, the county department of job and family services shall continue to bear the full cost of each replacement warrant issued until the board of county commissioners requires the county department of job and family services to obtain from each such recipient the authorization forms as provided in this section.

Sec. 329.04. (A) The county department of job and family services shall have, exercise, and perform the following powers and duties:

(1) Perform any duties assigned by the state department of job and family services regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or personal dependency and to strengthen family life:

(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code;

(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 of the Revised Code;

(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services.

(2) Administer disability financial assistance ~~under Chapter 5115. of the Revised Code,~~ as required by the state department of job and family services under section 5115.03 of the Revised Code;

(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;

~~(3)~~(4) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board of county commissioners and if otherwise required by state law;

~~(4)~~(5) Cooperate with state and federal authorities in any matter relating to family services and to act as the agent of such authorities;

~~(5)~~(6) Submit an annual account of its work and expenses to the board of county commissioners and to the state department of job and family services at the close of each fiscal year;

~~(6)~~(7) Exercise any powers and duties relating to family services duties or workforce development activities imposed upon the county department of job and family services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to

meet emergencies during war or peace;

~~(7)~~(8) Determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act";

~~(8)~~(9) If assigned by the state director of job and family services under section 5101.515 of the Revised Code, determine applicants' eligibility for health assistance under the children's health insurance program part II;

~~(9)~~(10) Enter into a plan of cooperation with the board of county commissioners under section 307.983, consult with the board in the development of the transportation work plan developed under section 307.985, establish with the board procedures under section 307.986 for providing services to children whose families relocate frequently, and comply with the contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the county department;

~~(10)~~(11) For the purpose of complying with a ~~partnership~~ fiscal agreement the board of county commissioners enters into under section 307.98 of the Revised Code, exercise the powers and perform the duties the ~~partnership~~ fiscal agreement assigns to the county department;

~~(11)~~(12) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services changing its federal cost allocation plan, the county department may not implement the power or duty unless the United States department of health and human services approves the changes.

Sec. 329.05. The county department of job and family services may administer or assist in administering any state or local family services ~~activity~~ duty in addition to those mentioned in section 329.04 of the Revised Code, supported wholly or in part by public funds from any source provided by agreement between the board of county commissioners and the officer, department, board, or agency in which the administration of such activity is vested. Such officer, department, board, or agency may enter into such agreement and confer upon the county department of job and family services, to the extent and in particulars specified in the agreement, the performance of any duties and the exercise of any powers imposed upon or vested in such officer, board, department, or agency, with respect to the

administration of such activity. Such agreement shall be in the form of a resolution of the board of county commissioners, accepted in writing by the other party to the agreement, and filed in the office of the county auditor, and when so filed, shall have the effect of transferring the exercise of the powers and duties to which the agreement relates and shall exempt the other party from all further responsibility for the exercise of the powers and duties so transferred, during the life of the agreement.

Such agreement shall be coordinated and not conflict with a ~~partnership~~ fiscal agreement entered into under section 307.98, a contract entered into under section 307.981 or 307.982, a plan of cooperation entered into under section 307.983, a regional plan of cooperation entered into under section 307.984, a transportation work plan developed under section 307.985, or procedures for providing services to children whose families relocate frequently established under section 307.986 of the Revised Code. It may be revoked at the option of either party, by a resolution or order of the revoking party filed in the office of the auditor. Such revocation shall become effective at the end of the fiscal year occurring at least six months following the filing of the resolution or order. In the absence of such an express revocation so filed, the agreement shall continue indefinitely.

This section does not permit a county department of job and family services to manage or control hospitals, humane societies, detention facilities, jails or probation departments of courts, or veterans service commissions.

Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(B) The disability medical assistance program established under Chapter 5115. of the Revised Code;

(C) The medical assistance program established under Chapter 5111. of the Revised Code;

~~(C)(D)~~ (D) The Ohio works first program established under Chapter 5107. of the Revised Code;

~~(D)(E)~~ (E) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

Sec. 329.06. (A) Except as provided in division (C) of this section and section 6301.08 of the Revised Code, the board of county commissioners

shall establish a county family services planning committee. The board shall appoint a member to represent the county department of job and family services; an employee in the classified civil service of the county department of job and family services, if there are any such employees; and a member to represent the public. The board shall appoint other individuals to the committee in such a manner that the committee's membership is broadly representative of the groups of individuals and the public and private entities that have an interest in the family services provided in the county. The board shall make appointments in a manner that reflects the ethnic and racial composition of the county. The following groups and entities may be represented on the committee:

- (1) Consumers of family services;
- (2) The public children services agency;
- (3) The child support enforcement agency;
- (4) The county family and children first council;
- (5) Public and private colleges and universities;
- (6) Public entities that provide family services, including boards of health, boards of education, the county board of mental retardation and developmental disabilities, and the board of alcohol, drug addiction, and mental health services that serves the county;
- (7) Private nonprofit and for-profit entities that provide family services in the county or that advocate for consumers of family services in the county, including entities that provide services to or advocate for victims of domestic violence;
- (8) Labor organizations;
- (9) Any other group or entity that has an interest in the family services provided in the county, including groups or entities that represent any of the county's business, urban, and rural sectors.

(B) The county family services planning committee shall do all of the following:

- (1) Serve as an advisory body to the board of county commissioners with regard to the family services provided in the county, including assistance under Chapters 5107. and 5108. of the Revised Code, publicly funded child day-care under Chapter 5104. of the Revised Code, and social services provided under section 5101.46 of the Revised Code;
- (2) At least once a year, review and analyze the county department of job and family services' implementation of the programs established under Chapters 5107. and 5108. of the Revised Code. In its review, the committee shall use information available to it to examine all of the following:
 - (a) Return of assistance groups to participation in either program after

ceasing to participate;

(b) Teen pregnancy rates among the programs' participants;

(c) The other types of assistance the programs' participants receive, including medical assistance under Chapter 5111. of the Revised Code, publicly funded child day-care under Chapter 5104. of the Revised Code, food stamp benefits under section 5101.54 of the Revised Code, and energy assistance under Chapter 5117. of the Revised Code;

(d) Other issues the committee considers appropriate.

The committee shall make recommendations to the board of county commissioners and county department of job and family services regarding the committee's findings.

~~(3) Provide comments and recommendations to the board prior to the board's entering into or substantially amending a partnership agreement with the director of job and family services under section 307.98 of the Revised Code;~~

~~(4)~~ Conduct public hearings on proposed county profiles for the provision of social services under section 5101.46 of the Revised Code;

~~(5)~~⁽⁴⁾ At the request of the board, make recommendations and provide assistance regarding the family services provided in the county;

~~(6)~~⁽⁵⁾ At any other time the committee considers appropriate, consult with the board and make recommendations regarding the family services provided in the county. The committee's recommendations may address the following:

(a) Implementation and administration of family service programs;

(b) Use of federal, state, and local funds available for family service programs;

(c) Establishment of goals to be achieved by family service programs;

(d) Evaluation of the outcomes of family service programs;

(e) Any other matter the board considers relevant to the provision of family services.

(C) If there is a committee in existence in a county on October 1, 1997, that the board of county commissioners determines is capable of fulfilling the responsibilities of a county family services planning committee, the board may designate the committee as the county's family services planning committee and the committee shall serve in that capacity.

Sec. 340.021. (A) In an alcohol, drug addiction, and mental health service district comprised of a county with a population of two hundred fifty thousand or more on ~~the effective date of this section~~ October 10, 1989, the board of county commissioners shall, within thirty days of ~~the effective date of this section~~ October 10, 1989, establish an alcohol and drug addiction

services board as the entity responsible for providing alcohol and drug addiction services in the county, unless, prior to that date, the board adopts a resolution providing that the entity responsible for providing the services is a board of alcohol, drug addiction, and mental health services. If the board of county commissioners establishes an alcohol and drug addiction services board, the community mental health board established under former section 340.02 of the Revised Code shall serve as the entity responsible for providing mental health services in the county. A community mental health board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to mental health services. An alcohol and drug addiction services board has all the powers, duties, and obligations of a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services. Any provision of the Revised Code that refers to a board of alcohol, drug addiction, and mental health services with regard to mental health services also refers to a community mental health board and any provision that refers to a board of alcohol, drug addiction, and mental health services with regard to alcohol and drug addiction services also refers to an alcohol and drug addiction services board.

An alcohol and drug addiction services board shall consist of eighteen members, six of whom shall be appointed by the director of alcohol and drug addiction services and twelve of whom shall be appointed by the board of county commissioners. Of the members appointed by the director, one shall be a person who has received or is receiving services for alcohol or drug addiction, one shall be a parent or relative of such a person, one shall be a professional in the field of alcohol or drug addiction services, and one shall be an advocate for persons receiving treatment for alcohol or drug addiction. The membership of the board shall, as nearly as possible, reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in alcohol and drug addiction services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

~~(B)~~ A community mental health board shall consist of eighteen members, six of whom shall be appointed by the director of mental health and twelve of whom shall be appointed by the board of county commissioners. Of the members appointed by the director, one shall be a person who has received or is receiving mental health services, one shall be a parent or relative of such a person, one shall be a psychiatrist or a

physician, and one shall be a mental health professional. The membership of the board as nearly as possible shall reflect the composition of the population of the service district as to race and sex. Members shall be residents of the service district and shall be interested in mental health services. Requirements for membership, including prohibitions against certain family and business relationships, and terms of office shall be the same as those for members of boards of alcohol, drug addiction, and mental health services.

(B) If a board of county commissioners subject to division (A) of this section did not adopt a resolution providing for a board of alcohol, drug addiction, and mental health services, the board of county commissioners may adopt a resolution providing for such a board, subject to both of the following:

(1) The resolution shall be adopted not later than January 1, 2004.

(2) Before adopting the resolution, the board of county commissioners shall provide notice of the proposed resolution to the alcohol and drug services board and the community mental health board and shall provide both boards an opportunity to comment on the proposed resolution.

Sec. 340.03. (A) Subject to rules issued by the director of mental health after consultation with relevant constituencies as required by division (A)(11) of section 5119.06 of the Revised Code, with regard to mental health services, the board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facilities and community mental health services;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, assess the community mental health needs, set priorities, and develop plans for the operation of facilities and community mental health services;

(c) In accordance with guidelines issued by the director of mental health after consultation with board representatives, develop and submit to the department of mental health, no later than six months prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, a community mental health plan listing community mental health needs, including the needs of all residents of the district now residing in state mental institutions and severely mentally disabled adults, children, and adolescents; all children subject to a determination made pursuant to section 121.38 of the Revised Code; and all the facilities and community mental

health services that are or will be in operation or provided during the period for which the plan will be in operation in the service district to meet such needs.

The plan shall include, but not be limited to, a statement of which of the services listed in section 340.09 of the Revised Code the board intends to provide or purchase, an explanation of how the board intends to make any payments that it may be required to pay under section 5119.62 of the Revised Code, a statement of the inpatient and community-based services the board proposes that the department operate, an assessment of the number and types of residential facilities needed, and such other information as the department requests, and a budget for moneys the board expects to receive. The board shall also submit an allocation request for state and federal funds. Within sixty days after the department's determination that the plan and allocation request are complete, the department shall approve or disapprove the plan and request, in whole or in part, according to the criteria developed pursuant to section 5119.61 of the Revised Code. The department's statement of approval or disapproval shall specify the inpatient and the community-based services that the department will operate for the board. Eligibility for financial support shall be contingent upon an approved plan or relevant part of a plan.

If the director disapproves all or part of any plan, the director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall provide the board an opportunity to present its case on behalf of the plan. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

If a board determines that it is necessary to amend a plan or an allocation request that has been approved under division (A)(1)(c) of this section, the board shall submit a proposed amendment to the director. The director may approve or disapprove all or part of the amendment. If the

director does not approve all or part of the amendment within thirty days after it is submitted, the amendment or part of it shall be considered to have been approved. The director shall inform the board of the reasons for disapproval of all or part of an amendment and of the criteria that must be met before the amendment may be approved. The director shall provide the board an opportunity to present its case on behalf of the amendment. The director shall give the board a reasonable time in which to meet the criteria, and shall offer the board technical assistance to help it meet the criteria.

The board shall implement the plan approved by the department.

(d) Receive, compile, and transmit to the department of mental health applications for state reimbursement;

(e) Promote, arrange, and implement working agreements with social agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving services from a community mental health agency as defined in section 5122.01 of the Revised Code, or from a residential facility licensed under section 5119.22 of the Revised Code. If the investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.611 of the Revised Code, cooperate with the director of mental health in visiting and evaluating whether the services of a community mental health agency satisfy the certification standards established by rules adopted under that section;

(4) In accordance with criteria established under division (G) of section 5119.61 of the Revised Code, review and evaluate the quality, effectiveness, and efficiency of services provided through its community mental health plan and submit its findings and recommendations to the department of mental health;

(5) In accordance with section 5119.22 of the Revised Code, review applications for residential facility licenses and recommend to the department of mental health approval or disapproval of applications;

(6) Audit, in accordance with rules adopted by the auditor of state pursuant to section 117.20 of the Revised Code, at least annually all programs and services provided under contract with the board. In so doing, the board may contract for or employ the services of private auditors. A copy of the fiscal audit report shall be provided to the director of mental health, the auditor of state, and the county auditor of each county in the

board's district.

(7) Recruit and promote local financial support for mental health programs from private and public sources;

(8)(a) Enter into contracts with public and private facilities for the operation of facility services included in the board's community mental health plan and enter into contracts with public and private community mental health agencies for the provision of community mental health services listed in section 340.09 of the Revised Code and included in the board's community mental health plan. Contracts with community mental health agencies are subject to section 5119.611 of the Revised Code. Section 307.86 of the Revised Code does not apply to contracts entered into under this division. In contracting with a community mental health agency, a board shall consider the cost effectiveness of services provided by that agency and the quality and continuity of care, and may review cost elements, including salary costs, of the services to be provided. A utilization review process shall be established as part of the contract for services entered into between a board and a community mental health agency. The board may establish this process in a way that is most effective and efficient in meeting local needs. In the case of a contract with a community mental health facility described, as defined in division (B) of section 5111.022 of the Revised Code, to provide services established by listed in division (A)(B) of that section, the contract shall provide for the facility to be paid in accordance with the contract entered into between the departments of job and family services and mental health under division (E) of that section 5111.91 of the Revised Code and any rules adopted under division (A) of section 5119.61 of the Revised Code.

If either the board or a facility or community mental health agency with which the board contracts under division (A)(8)(a) of this section proposes not to renew the contract or proposes substantial changes in contract terms, the other party shall be given written notice at least one hundred twenty days before the expiration date of the contract. During the first sixty days of this one hundred twenty-day period, both parties shall attempt to resolve any dispute through good faith collaboration and negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty

days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board of county commissioners, or of a majority of the boards of county commissioners if the district is a joint-county district.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(ii) or (iii) of this section unless the director determines that it is not feasible to have the department operate the facility or provide the service.

The director shall not give a board approval to operate a facility or provide a community mental health service under division (A)(8)(b)(iii) of this section unless the director determines that the board will provide greater administrative efficiency and more or better services than would be available if the board contracted with a private or public facility or community mental health agency.

The director shall not give a board approval to operate a facility previously operated by a person or other government entity unless the board has established to the director's satisfaction that the person or other government entity cannot effectively operate the facility or that the person or other government entity has requested the board to take over operation of the facility. The director shall not give a board approval to provide a community mental health service previously provided by a community mental health agency unless the board has established to the director's satisfaction that the agency cannot effectively provide the service or that the

agency has requested the board take over providing the service.

The director shall review and evaluate a board's operation of a facility and provision of community mental health service under division (A)(8)(b) of this section.

Nothing in division (A)(8)(b) of this section authorizes a board to administer or direct the daily operation of any facility or community mental health agency, but a facility or agency may contract with a board to receive administrative services or staff direction from the board under the direction of the governing body of the facility or agency.

(9) Approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for contract services provided by community mental health agencies in accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance;

(10) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the programs under the jurisdiction of the board, including a fiscal accounting;

(11) Establish, to the extent resources are available, a community support system, which provides for treatment, support, and rehabilitation services and opportunities. The essential elements of the system include, but are not limited to, the following components in accordance with section 5119.06 of the Revised Code:

(a) To locate persons in need of mental health services to inform them of available services and benefits mechanisms;

(b) Assistance for clients to obtain services necessary to meet basic human needs for food, clothing, shelter, medical care, personal safety, and income;

(c) Mental health care, including, but not limited to, outpatient, partial hospitalization, and, where appropriate, inpatient care;

(d) Emergency services and crisis intervention;

(e) Assistance for clients to obtain vocational services and opportunities for jobs;

(f) The provision of services designed to develop social, community, and personal living skills;

(g) Access to a wide range of housing and the provision of residential treatment and support;

(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;

(i) Recognition and encouragement of families, friends, neighborhood

networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;

(j) Grievance procedures and protection of the rights of consumers of mental health services;

(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.

(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section 3722.18 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability

to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No board member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section, section 340.033, or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a board member or employee of a board taken within the scope of the board member's official duties or employee's employment. For the purposes of this division, the conduct of a board member or employee shall not be considered willful or wanton misconduct if the board member or employee acted in good faith and in a manner that the board member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 341.05. (A) The sheriff shall assign sufficient staff to ensure the safe and secure operation of the county jail, but staff shall be assigned only to the extent such staff can be provided with funds appropriated to the sheriff at the discretion of the board of county commissioners. The staff may include any of the following:

- (1) An administrator for the jail;
- (2) Jail officers, including civilian jail officers who are not sheriff's deputies, to conduct security duties;
- (3) Other necessary employees to assist in the operation of the county jail.

(B) The sheriff shall employ a sufficient number of female staff to be available to perform all reception and release procedures for female prisoners. These female employees shall be on duty for the duration of the confinement of the female prisoners.

(C) The jail administrator and civilian jail officers appointed by the sheriff shall have all the powers of police officers on the jail grounds as are necessary for the proper performance of the duties relating to their positions at the jail and as are consistent with their level of training.

(D) The sheriff may authorize civilian jail officers to wear a standard uniform consistent with their prescribed authority, in accordance with section 311.281 of the Revised Code. Civilian jail officer uniforms shall be differentiated clearly from the uniforms worn by sheriff's deputies.

(E) ~~The~~ Except as provided in division (B) of section 341.25 of the Revised Code, the compensation of jail staff shall be payable from the general fund of the county, upon the warrant of the auditor, in accordance with standard county payroll procedures.

Sec. 341.25. (A) The sheriff may establish a commissary for the jail. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the jail shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the jail's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the jail necessary hygiene articles and writing materials.

(B) If a commissary is established, the sheriff shall establish a commissary fund for the jail. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment, and to provide life skills training and education or treatment services, or both, for the benefit of persons incarcerated in the jail, and to pay salary and benefits for employees of the sheriff who work in or are employed for the purpose of providing service to the commissary. The sheriff shall adopt rules for the operation of any commissary fund the sheriff establishes.

Sec. 504.03. (A)(1) If a limited home rule government is adopted pursuant to section 504.02 of the Revised Code, it shall remain in effect for at least three years except as otherwise provided in division (B) of this section. At the end of that period, if the board of township trustees determines that that government is not in the best interests of the township, it may adopt a resolution causing the board of elections to submit to the electors of the unincorporated area of the township the question of whether the township should continue the limited home rule government. The question shall be voted upon at the next general election occurring at least seventy-five days after the certification of the resolution to the board of elections. After certification of the resolution, the board of elections shall submit the question to the electors of the unincorporated area of the township, and the ballot language shall be substantially as follows:

"Shall the township of (name) continue the limited home rule government under which it is operating?

..... For continuation of the limited home rule government

..... Against continuation of the limited home rule government"

(2) At least forty-five days before the election on the question of continuing the limited home rule government, the board of township trustees shall have notice of the election published in a newspaper of general circulation in the township for three consecutive weeks and have the notice posted in five conspicuous places in the unincorporated area of the township.

(B) The electors of a township that has adopted a limited home rule government may propose at any time by initiative petition, in accordance with section 504.14 of the Revised Code, a resolution submitting to the electors in the unincorporated area of the township, in an election, the question set forth in division (A)(1) of this section.

(C) If a majority of the votes cast under division (A) or (B) of this section on the proposition of continuing the limited home rule government is in the negative, that government is terminated effective on the first day of January immediately following the election, and a limited home rule government shall not be adopted in the unincorporated area of the township pursuant to section 504.02 of the Revised Code for at least three years after that date.

(D) If a limited home rule government is terminated under this section, the board of township trustees immediately shall adopt a resolution repealing all resolutions adopted pursuant to this chapter that are not authorized by any other section of the Revised Code outside this chapter, effective on the first day of January immediately following the election

described in division (A) or (B) of this section. However, no resolution adopted under this division shall affect or impair the obligations of the township under any security issued or contracts entered into by the township in connection with the financing of any water supply facility or sewer improvement under sections 504.18 to 504.20 of the Revised Code or the authority of the township to collect or enforce any assessments or other revenues constituting security for or source of payments of debt service charges of those securities.

(E) Upon the termination of a limited home rule government under this section, if the township had converted its board of township trustees to a five-member board ~~under section 504.21 of the Revised Code~~ before the effective date of this amendment, the current board member who received the lowest number of votes of the current board members who were elected at the most recent election for township trustees, and the current board member who received the lowest number of votes of the current board members who were elected at the second most recent election for township trustees, shall cease to be township trustees on the date that the limited home rule government terminates. Their offices likewise shall cease to exist at that time, and the board shall continue as a three-member board as provided in section 505.01 of the Revised Code.

Sec. 504.04. (A) A township that adopts a limited home rule government may do all of the following by resolution, provided that any of these resolutions, other than a resolution to supply water or sewer services in accordance with sections 504.18 to 504.20 of the Revised Code, may be enforced only by the imposition of civil fines as authorized in this chapter:

(1) Exercise all powers of local self-government within the unincorporated area of the township, other than powers that are in conflict with general laws, except that the township shall comply with the requirements and prohibitions of this chapter, and shall enact no taxes other than those authorized by general law, and except that no resolution adopted pursuant to this chapter shall encroach upon the powers, duties, and privileges of elected township officers or change, alter, combine, eliminate, or otherwise modify the form or structure of the township government unless the change is required or permitted by this chapter;

(2) Adopt and enforce within the unincorporated area of the township local police, sanitary, and other similar regulations that are not in conflict with general laws or otherwise prohibited by division (B) of this section;

(3) Supply water and sewer services to users within the unincorporated area of the township in accordance with sections 504.18 to 504.20 of the Revised Code.

(B) No resolution adopted pursuant to this chapter shall do any of the following:

(1) Create a criminal offense or impose criminal penalties, except as authorized by division (A) of this section;

(2) Impose civil fines other than as authorized by this chapter;

(3) Establish or revise subdivision regulations, road construction standards, urban sediment rules, or storm water and drainage regulations;

(4) Establish or revise building standards, building codes, and other standard codes except as provided in section 504.13 of the Revised Code;

(5) Increase, decrease, or otherwise alter the powers or duties of a township under any other chapter of the Revised Code pertaining to agriculture or the conservation or development of natural resources;

(6) Establish regulations affecting hunting, trapping, fishing, or the possession, use, or sale of firearms;

(7) Establish or revise water or sewer regulations, except in accordance with sections 504.18 and 504.19 of the Revised Code.

Nothing in this chapter shall be construed as affecting the powers of counties with regard to the subjects listed in divisions (B)(3) to (5) of this section.

(C) Under a limited home rule government, all officers shall have the qualifications, and be nominated, elected, or appointed, as provided in Chapter 505. of the Revised Code, except that the board of township trustees shall appoint a full-time or part-time law director pursuant to section 504.15 of the Revised Code, and except that ~~section 504.21 of the Revised Code also shall apply if a five-member board of township trustees is approved for the township~~ before the effective date of this amendment shall continue to serve as the legislative authority with successive members serving for four-year terms of office until a termination of a limited home rule government under section 504.03 of the Revised Code.

(D) In case of conflict between resolutions enacted by a board of township trustees and municipal ordinances or resolutions, the ordinance or resolution enacted by the municipal corporation prevails. In case of conflict between resolutions enacted by a board of township trustees and any county resolution, the resolution enacted by the board of township trustees prevails.

Sec. 505.376. When any expenditure of a fire and ambulance district, other than for the compensation of district employees, exceeds ~~ten~~ twenty-five thousand dollars, the contract for the expenditure shall be in writing and made with the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the district. The bids shall be opened and shall be

publicly read by the clerk of the district, or the clerk's designee, at the time, date, and place specified in the advertisement to bidders or the specifications. The time, date, and place of bid openings may be extended to a later date by the board of trustees of the district, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening.

Each bid on any contract shall contain the full name of every person interested in the bid. If the bid is for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of section 153.54 of the Revised Code. If the bid is for any other contract, it shall be accompanied by a sufficient bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association that, if the bid is accepted, a contract will be entered into and the performance of it will be properly secured. If the bid for work embraces both labor and material, it shall be separately stated, with the price ~~thereof~~ of the labor and the material. The board may reject any and all bids. The contract shall be between the district and the bidder, and the district shall pay the contract price in cash. When a bonus is offered for completion of a contract prior to a specified date, the board may exact a prorated penalty in like sum for each day of delay beyond the specified date. When there is reason to believe there is collusion or combination among bidders, the bids of those concerned ~~therein~~ shall be rejected.

Sec. 507.09. (A) Except as otherwise provided in division (D) of this section, the township clerk shall be entitled to compensation as follows:

(1) In townships having a budget of fifty thousand dollars or less, three thousand five hundred dollars;

(2) In townships having a budget of more than fifty thousand but not more than one hundred thousand dollars, five thousand five hundred dollars;

(3) In townships having a budget of more than one hundred thousand but not more than two hundred fifty thousand dollars, seven thousand seven hundred dollars;

(4) In townships having a budget of more than two hundred fifty thousand but not more than five hundred thousand dollars, nine thousand nine hundred dollars;

(5) In townships having a budget of more than five hundred thousand but not more than seven hundred fifty thousand dollars, eleven thousand dollars;

(6) In townships having a budget of more than seven hundred fifty thousand but not more than one million five hundred thousand dollars,

thirteen thousand two hundred dollars;

(7) In townships having a budget of more than one million five hundred thousand but not more than three million five hundred thousand dollars, fifteen thousand four hundred dollars;

(8) In townships having a budget of more than three million five hundred thousand dollars but not more than six million dollars, sixteen thousand five hundred dollars;

(9) In townships having a budget of more than six million dollars, seventeen thousand six hundred dollars.

(B) Any township clerk may elect to receive less than the compensation the clerk is entitled to under division (A) of this section. Any clerk electing to do this shall so notify the board of township trustees in writing, and the board shall include this notice in the minutes of its next board meeting.

(C) The compensation of the township clerk shall be paid in equal monthly payments. If the office of clerk is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office.

(D) Beginning in calendar year 1999, the township clerk shall be entitled to compensation as follows:

(1) In calendar year 1999, the compensation specified in division (A) of this section increased by three per cent;

(2) In calendar year 2000, the compensation determined under division (D)(1) of this section increased by three per cent;

(3) In calendar year 2001, the compensation determined under division (D)(2) of this section increased by three per cent;

(4) In calendar year 2002, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(3) of this section increased by three per cent; in townships having a budget of more than six million but not more than ten million dollars, nineteen thousand eight hundred ten dollars; and in townships having a budget of more than ten million dollars, twenty thousand nine hundred dollars;

(5) In calendar year 2003, the compensation determined under division (D)(4) of this section increased by three per cent or the percentage increase in the consumer price index as described in division (D)(7)(b) of this section, whichever percentage is lower;

(6) In calendar year 2004, except in townships having a budget of more than six million dollars, the compensation determined under division (D)(5) of this section for the calendar year 2003 increased by three per cent or the percentage increase in the consumer price index as described in division

(D)(7)(b) of this section, whichever percentage is lower; in townships having a budget of more than six million but not more than ten million dollars, twenty-two thousand eighty-seven dollars; and in townships having a budget of more than ten million dollars, twenty-five thousand five hundred fifty-three dollars;

(7) In calendar years ~~2003~~ 2005 through 2008, the compensation determined under division (D) of this section for the immediately preceding calendar year increased by the lesser of the following:

(a) Three per cent;

(b) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding calendar year, rounded to the nearest one-tenth of one per cent;

~~(6)(8)~~ In calendar year 2009 and thereafter, the amount determined under division (D) of this section for calendar year 2008.

As used in this division, "consumer price index" has the same meaning as in section 325.18 of the Revised Code.

Sec. 511.12. The board of township trustees may prepare plans and specifications and make contracts for the construction and erection of a memorial building, monument, statue, or memorial, for the purposes specified and within the amount authorized by section 511.08 of the Revised Code. If the total estimated cost of the construction and erection exceeds ~~fifteen~~ twenty-five thousand dollars, the contract shall be let by competitive bidding. If the estimated cost is ~~fifteen~~ twenty-five thousand dollars or less, competitive bidding may be required at the board's discretion. In making contracts under this section, the board shall be governed as follows:

(A) Contracts for construction when competitive bidding is required shall be based upon detailed plans, specifications, forms of bids, and estimates of cost, adopted by the board.

(B) Contracts shall be made in writing upon concurrence of a majority of the members of the board, and shall be signed by at least two of ~~such~~ the members and by the contractor. If competitive bidding is required, no contract shall be made or signed until an advertisement has been placed in two newspapers, published or of general circulation in the township, for a period of thirty days.

(C) No contract shall be let by competitive bidding except to the lowest and best bidder, who shall meet the requirements of section 153.54 of the Revised Code.

(D) When, in the opinion of the board, it becomes necessary in the prosecution of such work to make alterations or modifications in any

contract, ~~such~~ the alterations or modifications shall be made only by order of the board, and ~~such~~ that order shall be of no effect until the price to be paid for the work or materials under ~~such~~ the altered or modified contract has been agreed upon in writing and signed by the contractor and at least two members of the board.

(E) No contract or alteration or modification ~~thereof~~ of it shall be valid unless made in the manner provided in this section.

Sec. 511.181. If the board of park commissioners of a township park district created before 1955 is appointed by the board of township trustees, the board of township trustees may adopt a resolution to convert the parks owned and operated by the park district into parks owned and operated by the township if the township has a population of less than thirty-five thousand and a geographical area of less than fifteen square miles. Upon the adoption of that resolution, the township park district shall cease to exist, all real and personal property owned by the park district shall be transferred to the township, and the township shall assume liability with respect to all contracts and debts of the park district. All employees of the township park district whose parks are so converted into township parks shall become township employees, and the board of township trustees may retain the former park commissioners, on the terms that the trustees consider appropriate, to operate the property formerly owned by the township park district.

The township shall continue to collect any taxes levied within the former township park district, and the taxes shall be deposited into the township treasury as funds to be used for the park purposes for which they were levied.

Within fifteen days after the adoption of a township park district conversion resolution under this section, the clerk of the board of township trustees shall certify a copy of that resolution to the county auditor.

Sec. 515.01. The board of township trustees may provide artificial lights for any road, highway, public place, or building under its supervision or control, or for any territory within the township and outside the boundaries of any municipal corporation, when the board determines that the public safety or welfare requires that ~~such~~ the road, highway, public place, building, or territory shall be lighted. ~~Such~~ The lighting may be procured either by the township installing a lighting system or by contracting with any person or corporation to furnish lights.

If lights are furnished under contract, ~~such~~ the contract may provide that the equipment employed may be owned by the township or by the person or corporation supplying it.

If the board determines to procure ~~such~~ lighting by contract and the total estimated cost of the contract exceeds ~~fifteen~~ twenty-five thousand dollars, the board shall prepare plans and specifications for the lighting equipment and shall, for two weeks, advertise for bids for furnishing ~~such~~ the lighting equipment, either by posting ~~such~~ the advertisement in three conspicuous places in the township or by publication ~~thereof~~ of the advertisement once a week, for two consecutive weeks, in a newspaper of general circulation in the township. Any such contract for lighting shall be made with the lowest and best bidder.

No lighting contract awarded by the board shall be made to cover a period of more than ten years. The cost of installing and operating any lighting system or any light furnished under contract shall be paid from the general fund of the township treasury.

Sec. 515.07. If the total estimated cost of any lighting improvement provided for in section 515.06 of the Revised Code is ~~fifteen~~ twenty-five thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the district, a notice specifying the number, candle power, and location of lights; and the kind of supports ~~therefore~~ for the lights as provided by section 515.06 of the Revised Code, as well as the time, which shall not be less than thirty days from the posting of the notices, and the place the board will receive bids to furnish ~~such~~ the lights. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

Sec. 521.05. (A) If the total estimated cost of any improvement provided for in section 521.04 of the Revised Code is ~~ten~~ twenty-five thousand dollars or less, the contract may be let without competitive bidding. When competitive bidding is required, the board of township trustees shall post, in three of the most conspicuous public places in the township, a notice specifying the improvement to be made and the time, which shall be at least thirty days after the posting of the notices, and the place the board will receive bids to make the improvement. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids.

(B) On accepting a bid, the board shall enter into a contract with the successful bidder for making the improvement according to specifications. The contract shall not be for a term longer than ten years.

Sec. 715.013. (A) Except as otherwise expressly authorized by the

Revised Code, no municipal corporation shall levy a tax that is the same as or similar to a tax levied under Chapter 322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 5707., 5725., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 5741., 5743., or 5749. of the Revised Code.

(B) This section does not prohibit a municipal corporation from levying a tax on amounts any of the following:

(1) Amounts received for admission to any place ~~or, on and after January 1, 2002, on the~~

(2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code;

(3) On and after January 1, 2004, the income of a telephone company, as defined in section 5727.01 of the Revised Code.

Sec. 718.01. (A) As used in this chapter:

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five per cent of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a

deduction in the computation of federal taxable income:

(g) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:

(i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(2)(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(3)(4) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(4)(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

(5)(6) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable

income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division (F) of this section, required to be reported on schedule C, schedule E, or schedule F.

(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(9) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;

(b) A municipal corporation acting as the agent of another municipal corporation; and

(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.

(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

~~(B) No municipal corporation with respect to that income that it may tax shall tax such income at other than a uniform rate.~~

(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on

income for (Brief description of the purpose of the proposed levy) be passed?

FOR THE INCOME TAX
AGAINST THE INCOME TAX"

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D)(1) Except as ~~otherwise~~ provided in division ~~(D)(2) or (F)(9)(E) or (F)~~ of this section, no municipal corporation shall exempt from a tax on income; compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

~~(2) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from a tax on income any compensation arising from the grant, sale, exchange, or other disposition of a stock option; the exercise of a stock option; or the sale, exchange, or other disposition of stock purchased under a stock option. (a) For taxable years beginning on or after January 1, 2004, no municipal corporation shall tax the net profit from a business or profession using any base other than the taxpayer's adjusted federal taxable income.~~

(b) Division (D)(2)(a) of this section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code or to the net profit from a sole proprietorship.

~~(E) Nothing in this section shall prevent a municipal corporation from permitting lawful deductions as prescribed by ordinance. If a taxpayer's~~ The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

(1) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

(2) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

If an individual's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation. In

In the case of a taxpayer who has a net profit from a business or

profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, ~~a greater amount than the net profit reported by the taxpayer on schedule C filed in reference to the year in question as taxable income from such sole proprietorship, except as otherwise specifically provided by ordinance or regulation~~ an amount other than the net profit required to be reported by the taxpayer on schedule C or F from such sole proprietorship for the taxable year.

In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year.

(F) A municipal corporation shall not tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

(3) Except as otherwise provided in division (G) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;

(6) The income of a public utility, when that public utility is subject to

the tax levied under section 5727.24 or 5727.30 of the Revised Code, except ~~starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Revised Code, may be taxed by a municipal corporation~~ may tax the following, subject to Chapter 5745. of the Revised Code:

(a) Beginning January 1, 2002, the income of an electric company or combined company;

(b) Beginning January 1, 2004, the income of a telephone company.

As used in division (F)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;

(9) Except as provided in division (H) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733. of the Revised Code;

(10) Employee compensation that is not "qualifying wages" as defined in section 718.03 of the Revised Code.

(G) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th general assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(H) Any municipal corporation that, on December 6, 2002, taxes an S corporation shareholder's distributive share of net profits of the S corporation to any greater extent than that permitted under division (F)(9) of this section may continue after 2002 to tax such distributive shares to such greater extent only if a majority of the electors of the municipal corporation voting on the question of such continuation vote in favor thereof at an

~~election held on November 4, 2003. If a majority of electors vote in favor of that question, then, for purposes of section 718.14 of the Revised Code, "pass through entity" includes S corporations, "income from a pass through entity" includes distributive shares from an S corporation, and "owner" includes a shareholder of an S corporation, notwithstanding that section to the contrary.~~

(I) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

(J)(1) Nothing in this chapter prohibits a municipal corporation from allowing, by resolution or ordinance, a net operating loss carryforward.

(2) Nothing in this chapter requires a municipal corporation to allow a net operating loss carryforward.

~~Sec. 718.02. This section does not apply to electric companies or combined companies, or to electric light companies for which an election made under section 5745.031 taxpayers that are subject to and required to file reports under Chapter 5745. of the Revised Code is in effect.~~

~~(A) In the taxation of income that is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation. In the absence of such records Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:~~

~~(1) The average net book value original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average net book value original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.~~

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be

determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Revised Code;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing ~~allocation~~ apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

(B) As used in division (A) of this section, "sales made in a municipal corporation" mean:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(C) Except as otherwise provided in division (D) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

(D) This section does not apply to individuals who are residents of the municipal corporation and, except as otherwise provided in section 718.01 of the Revised Code, a municipal corporation may impose a tax on all income earned by residents of the municipal corporation to the extent allowed by the United States Constitution.

Sec. 718.021. (A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B)(1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from

each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C)(1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Sec. 718.03. (A) As used in this section:

(1) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.

(2) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(b) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax. Division (A)(2)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code. Division (A)(2)(b)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(c) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and has, by resolution or ordinance, been exempted from taxation by the municipal corporation.

(d) Deduct any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance, exempted the amount from withholding and tax.

(B) For taxable years beginning after 2003, no municipal corporation shall require any employer or any agent of any employer or any other payer, to withhold tax with respect to any amount other than qualifying wages. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(C) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(D)(1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the

employee colluded with the employer in connection with the failure to remit the tax withheld.

(E) Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

Sec. 718.05. (A) As used in this section:

(1) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

(2) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(B) A municipal corporation shall not require a taxpayer to file an annual income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such a taxpayer under the Internal Revenue Code. For taxable years beginning after 2003, except as otherwise provided in section 718.051 of the Revised Code and division (D) of this section, a municipal corporation shall not require a taxpayer to file an annual income tax return or report on any date other than the fifteenth day of the fourth month following the end of the taxpayer's taxable year.

(C) On and after January 1, 2001, any municipal corporation that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipal corporation's prescribed returns, reports, or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with rules or ordinances of the municipal corporation governing the filing of returns, reports, or documents.

~~(D) Beginning~~ Except as otherwise provided in section 718.051 of the Revised Code, beginning January 1, 2001, any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the individual or office charged with the administration of the municipal income tax. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by

ordinance or rule of the municipal corporation. A municipal corporation shall grant such a request for extension filed before January 1, 2004, for a period not less than the period of the federal extension request. For taxable years beginning after 2003, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. A municipal corporation may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the municipal corporation any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a municipal corporation income tax return does not extend the last date for paying the tax without penalty unless the municipal corporation grants an extension of that date.

Sec. 718.051. (A) As used in this section, "Ohio business gateway" means the online computer network system, initially created by the department of administrative services under section 125.30 of the Revised Code, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(B) Notwithstanding section 718.05 of the Revised Code, on and after January 1, 2005, any taxpayer that is subject to any municipal corporation's tax on the net profit from a business or profession and has received an extension to file the federal income tax return shall not be required to notify the municipal corporation of the federal extension and shall not be required to file any municipal income tax return until the last day of the month to which the due date for filing the federal return has been extended, provided that, on or before the date for filing the municipal income tax return, the person notifies the tax commissioner of the federal extension through the Ohio business gateway. An extension of time to file is not an extension of the time to pay any tax due.

(C) For taxable years beginning on or after January 1, 2005, a taxpayer subject to any municipal corporation's tax on the net profit from a business or profession may file any municipal income tax return or estimated municipal income return, and may make payment of amounts shown to be due on such returns, by using the Ohio business gateway.

(D)(1) As used in this division, "qualifying wages" has the same meaning as in section 718.03 of the Revised Code.

(2) Any employer may report the amount of municipal income tax

withheld from qualifying wages paid on or after January 1, 2007, and may make remittance of such amounts, by using the Ohio business gateway.

(E) Nothing in this section affects the due dates for filing employer withholding tax returns.

(F) No municipal corporation shall be required to pay any fee or charge for the operation or maintenance of the Ohio business gateway.

(G) The use of the Ohio business gateway by municipal corporations, taxpayers, or other persons pursuant to this section does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. This state shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(H)(1) The tax commissioner shall adopt rules establishing:

(a) The format of documents to be used by taxpayers to file returns and make payments through the Ohio business gateway; and

(b) The information taxpayers must submit when filing municipal income tax returns through the Ohio business gateway.

(2) The commissioner shall consult with the Ohio business gateway steering committee before adopting the rules described in division (H)(1) of this section.

(I) Nothing in this section shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

~~Sec. 718.11. As used in this section, "tax administrator" means the individual charged with direct responsibility for administration of a tax levied by a municipal corporation on income.~~

~~Not later than one hundred eighty days after the effective date of this section, the~~ The legislative authority of each municipal corporation that imposes a tax on income ~~on that effective date shall establish by ordinance~~ maintain a board to hear appeals as provided in this section. The legislative authority of any municipal corporation that does not impose a tax on income on the effective date of this ~~section~~ amendment, but that imposes such a tax after that date, shall establish such a board by ordinance not later than one hundred eighty days after the tax takes effect.

Whenever a tax administrator issues a decision regarding a municipal income tax obligation that is subject to appeal as provided in this section or in an ordinance or regulation of the municipal corporation, the tax administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

Any person who is aggrieved by a decision by the tax administrator and who has filed with the municipal corporation the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the board created pursuant to this section by filing a request with the board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the tax administrator issues the decision complained of.

The board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and may be represented by an attorney at law, certified public accountant, or other representative.

The board may affirm, reverse, or modify the tax administrator's decision or any part of that decision. The board shall issue a final decision on the appeal within ninety days after the board's final hearing on the appeal, and send ~~notice~~ a copy of its final decision by ordinary mail to ~~the petitioner~~ all of the parties to the appeal within fifteen days after issuing the decision. The taxpayer or the tax administrator may appeal the board's decision as provided in section 5717.011 of the Revised Code.

Each board of appeal created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Revised Code. Hearings requested by a taxpayer before a board of appeal created pursuant to this section are not meetings of a public body subject to section 121.22 of the Revised Code.

Sec. 718.121. (A) Except as provided in division (B) of this section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(B) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in division (A) of this section shall be calculated using the tax rate in effect in the second municipal corporation.

(C) Nothing in this section permits any credit carryforward.

Sec. 718.14. (A) As used in this section:

(1) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

(2) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code; ~~excluding an S corporation.~~

(3) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

(4) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

(5) "Owner's proportionate share," with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(B) On and after January 1, 2003, any municipal corporation imposing a tax that applies to income from a pass-through entity shall grant a credit to each owner who is domiciled in the municipal corporation for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the municipal corporation. The amount of the credit shall equal the lesser of the following amounts, subject to division (C) of this section:

(1) The owner's proportionate share of the amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state;

(2) The owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the municipal corporation in which the taxpayer is domiciled if the pass-through entity conducted business in the municipal corporation.

(C) If a municipal corporation grants a credit for a percentage, less than one hundred per cent, of the amount of income taxes paid on compensation by an individual who resides or is domiciled in the municipal corporation to another municipal corporation, the amount of credit otherwise required by division (B) of this section shall be multiplied by that percentage.

(D) On and after January 1, 2003, any municipal corporation that

imposes a tax on income of or from a pass-through entity shall specify by ordinance or rule whether the tax applies to income of the pass-through entity in the hands of the entity or to income from the pass-through entity in the hands of the owners of the entity. A municipal corporation may specify a different ordinance or rule under this division for each of the classes of pass-through entity enumerated in division (A)(2) of this section.

Sec. 718.15. A municipal corporation, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer that also receives a tax credit under section 122.17 of the Revised Code. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the municipal corporation derives from new employees of the taxpayer and shall be for a term not exceeding ~~ten~~ fifteen years. Before the municipal corporation passes an ordinance granting a credit, the municipal corporation and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

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

Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, when any expenditure, other than the compensation of persons employed ~~therein in the village~~, exceeds ~~fifteen~~ twenty-five thousand dollars, such contracts shall be in writing and made with the lowest and best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the clerk of ~~such the~~ village or a person designated by the clerk at the time, date, and place specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the legislative authority of the village, provided that written or oral notice of the change

shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. This section does not apply to those villages that have provided for the appointment of a village administrator under section 735.271 of the Revised Code.

Sec. 731.141. In those villages that have established the position of village administrator, as provided by section 735.271 of the Revised Code, the village administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the administrator's supervision involving not more than ~~fifteen~~ twenty-five thousand dollars. When an expenditure, other than the compensation of persons employed by the village, exceeds ~~fifteen~~ twenty-five thousand dollars, ~~such~~ the expenditure shall first be authorized and directed by ordinance of the legislative authority of the village. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the village administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the village. The bids shall be opened and shall be publicly read by the village administrator or a person designated by the village administrator at the time, date, and place as specified in the advertisement to bidders or specifications. The time, date, and place of bid openings may be extended to a later date by the village administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the village and signed on its behalf by the village administrator and the clerk.

The legislative authority of a village may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the village, under the direction of the village administrator, who shall make contracts, purchase supplies or materials, and provide labor for any work of the village in the manner provided by this section.

Sec. 735.05. The director of public service may make any contract, purchase supplies or material, or provide labor for any work under the supervision of the department of public service involving not more than ~~fifteen~~ twenty-five thousand dollars. When an expenditure within the department, other than the compensation of persons employed ~~therein~~ in the

department, exceeds ~~fifteen~~ twenty-five thousand dollars, ~~such~~ the expenditure shall first be authorized and directed by ordinance of the city legislative authority. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the director shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the city.

Sec. 737.03. The director of public safety shall manage, and make all contracts with reference to ~~the~~ police stations, fire houses, reform schools, infirmaries, hospitals, workhouses, farms, pesthouses, and all other charitable and reformatory institutions. In the control and supervision of those institutions, the director shall be governed by the provisions of Title VII of the Revised Code relating to those institutions.

The director may make all contracts and expenditures of money for acquiring lands for the erection or repairing of station houses, police stations, fire department buildings, fire cisterns, and plugs, that are required, for the purchase of engines, apparatus, and all other supplies necessary for the police and fire departments, and for other undertakings and departments under the director's supervision, but no obligation involving an expenditure of more than ~~fifteen~~ twenty-five thousand dollars shall be created unless first authorized and directed by ordinance. In making, altering, or modifying those contracts, the director shall be governed by sections 735.05 to 735.09 of the Revised Code, except that all bids shall be filed with and opened by the director. The director shall make no sale or disposition of any property belonging to the city without first being authorized by resolution or ordinance of the city legislative authority.

Sec. 753.22. (A) The director of public safety or the joint board established pursuant to section 753.15 of the Revised Code may establish a commissary for the workhouse. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the workhouse shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the workhouse's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the workhouse necessary hygiene articles and writing materials.

(B) If a commissary is established, the director of public safety or the joint board established pursuant to section 753.15 of the Revised Code shall

establish a commissary fund for the workhouse. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the workhouse and to pay salary and benefits for employees of the workhouse, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The director of public safety or the joint board established pursuant to section 753.15 of the Revised Code shall adopt rules and regulations for the operation of any commissary fund the director or the joint board establishes.

Sec. 901.17. ~~(A)~~ The division of markets ~~shall~~ may do all of the following:

~~(1)~~(A) Investigate the cost of production and marketing in all its phases;

~~(2)~~(B) Gather and disseminate information concerning supply, demand, prevailing prices, and commercial movements, including common and cold storage of food products, and maintain market news service for disseminating such information;

~~(3)~~(C) Promote, assist, and encourage the organization and operation of cooperative and other associations and organizations for improving the relations and services among producers, distributors, and consumers of food products;

~~(4)~~(D) Investigate the practice, methods, and any specific transaction of commission merchants and others who receive, solicit, buy, or handle on commission or otherwise, food products;

~~(5)~~(E) Act as mediator or arbitrator, when invited, in any controversy or issue that arises between producers and distributors and that affects the interest of the consumer;

~~(6)~~(F) Act on behalf of the consumers in conserving and protecting their interests in every practicable way against excessive prices;

~~(7)~~(G) Act as market adviser for producers and distributors, assisting them in economical and efficient distribution of good products at fair prices;

~~(8)~~(H) Encourage the establishment of retail municipal markets and develop direct dealing between producers and consumers;

~~(9)~~(I) Encourage the consumption of Ohio-grown products within the state, nationally, and internationally, ~~and inspect and determine the grade and condition of farm produce, both at collecting and receiving centers within the state;~~

~~(10)~~(J) Take such means and use such powers, relative to shipment,

transportation, and storage of foodstuffs of any kind, as are necessary, advisable, or desirable in case of an emergency creating or threatening to create a scarcity of food within the state;

(K) Participate in trade missions between states and foreign countries in order to encourage the sale and promotion of Ohio-grown products.

~~(B)(1) The director of agriculture shall adopt and may amend schedules of fees to be charged for inspecting farm produce at collecting and receiving centers or such other services as may be rendered under this section. All such fees shall be made with a view to the minimum cost and to make this branch of the department of agriculture self-sustaining.~~

~~The fees shall be deposited in the state treasury and credited to the inspection fund, which is hereby created, for use in carrying out the purposes of this section. All investment earnings of the inspection fund shall be credited to the fund. If, in any year, the balance in the inspection fund is not sufficient to meet the expenses incurred pursuant to this section, the deficit shall be paid from funds appropriated for the use of the department.~~

~~(2) The director may adopt a schedule of fees to be charged for inspecting any agricultural product for the purposes of the issuance of an export certificate, as may be required by the United States department of agriculture or foreign purchasers. Such fees shall be credited to the general revenue fund.~~

Sec. 901.21. (A) As used in this section and section 901.22 of the Revised Code:

(1) "Agricultural easement" has the same meaning as in section 5301.67 of the Revised Code.

(2) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, or on land that constitutes a homestead.

(3) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

(B) The director of agriculture may acquire real property used predominantly in agriculture and agricultural easements by gift, devise, or bequest if, at the time an easement is granted, such an easement is on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. The director, by any such means or by purchase

or lease, may acquire, or acquire the use of, stationary personal property or equipment that is located on land acquired in fee by the director under this section and that is necessary or appropriate for the use of the land predominantly in agriculture.

(C) The director may do all things necessary or appropriate to retain the use of real property acquired in fee under division (B) of this section predominantly in agriculture, including, without limitation, performing any of the activities described in division (A)(1) or (2) of section 5713.30 of the Revised Code or entering into contracts to lease or rent the real property so acquired to persons or governmental entities that will use the land predominantly in agriculture.

(D)(1) When the director considers it to be necessary or appropriate, the director may sell real property acquired in fee, and stationary personal property or equipment acquired by gift, devise, bequest, or purchase, under division (B) of this section on such terms as the director considers to be advantageous to this state.

(2) An agricultural easement acquired under division (B) of this section may be extinguished under the circumstances prescribed, and in accordance with the terms and conditions set forth, in the instrument conveying the agricultural easement.

(E) There is hereby created in the state treasury the agricultural easement purchase fund. The fund shall consist of the proceeds received from the sale of real and personal property under division (D) of this section; moneys received due to the extinguishment of agricultural easements acquired by the director under division (B) of this section or section 5301.691 of the Revised Code; moneys received due to the extinguishment of agricultural easements purchased with the assistance of matching grants made under section 901.22 of the Revised Code; gifts, bequests, devises, and contributions received by the director for the purpose of acquiring agricultural easements; and grants received from public or private sources for the purpose of purchasing agricultural easements. The fund shall be administered by the director, and moneys in the fund shall be used by the director exclusively to purchase agricultural easements under division (A) of section 5301.691 of the Revised Code and provide matching grants under section 901.22 of the Revised Code to municipal corporations, counties, townships, and charitable organizations for the purchase of agricultural easements. Money in the fund shall be used only to purchase agricultural easements on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is

purchased.

(F) There is hereby created in the state treasury the clean Ohio agricultural easement fund. Twelve and one-half per cent of net proceeds of obligations issued and sold pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. The fund shall be used by the director for the purposes of sections 901.21 and 901.22 and the provisions of sections 5301.67 to 5301.70 of the Revised Code governing agricultural easements. Investment earnings of the fund shall be credited to the fund. ~~For two years after the effective date of this amendment, investment earnings credited to the fund and~~ may be used to pay costs incurred by the director in administering those sections and provisions.

(G) The term of an agricultural easement purchased wholly or in part with money from the clean Ohio agricultural easement fund or the agricultural easement purchase fund shall be perpetual and shall run with the land.

Sec. 901.22. (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish procedures and eligibility criteria for making matching grants to municipal corporations, counties, townships, and charitable organizations described in division (B) of section 5301.69 of the Revised Code for the purchase of agricultural easements. With respect to agricultural easements that are purchased or proposed to be purchased with such matching grants that consist in whole or in part of moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code, the rules shall establish all of the following:

(a) Procedures for all of the following:

(i) Soliciting and accepting applications for matching grants;

(ii) Participation by local governments and by the public in the process of making matching grants to charitable organizations;

(iii) Notifying local governments, charitable organizations, and organizations that represent the interests of farmers of the ranking system established in rules adopted under division (A)(1)(b) of this section.

(b) A ranking system for applications for the matching grants that is based on the soil type, proximity of the land or other land that is conducive to agriculture as defined by rules adopted under this section and that is the subject of an application to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, farm stewardship, development pressure, and, if applicable, a local comprehensive land use plan involved with a proposed agricultural

easement. The rules shall require that preference be given to proposed agricultural easements that involve the greatest proportion of all of the following:

- (i) Prime soils, unique or locally important soils, microclimates, or similar features;

- (ii) Land that is adjacent to or that is in close proximity to other agricultural land or other land that is conducive to agriculture as defined by rules adopted under this section and that is already or is in the process of becoming permanently protected from development, by agricultural easement or otherwise, so that a buffer would exist between the land involving the proposed agricultural easement and areas that have been developed or likely will be developed for purposes other than agriculture;

- (iii) The use of best management practices, including federally or state approved conservation plans, and a history of substantial compliance with applicable federal and state laws;

- (iv) Development pressure that is imminent, but not a result of current location in the direct path of urban development;

- (v) Areas identified for agricultural protection in local comprehensive land use plans.

- (c) Any other criteria that the director determines are necessary for selecting applications for matching grants;

- (d) Requirements regarding the information that must be included in the annual monitoring report that must be prepared for an agricultural easement under division (D)(2) of section 5301.691 of the Revised Code, procedures for submitting a copy of the report to the office of farmland preservation in the department of agriculture, and requirements and procedures governing corrective actions that may be necessary to enforce the terms of the agricultural easement.

(2) Establish provisions that shall be included in the instrument conveying to a municipal corporation, county, township, or charitable organization any agricultural easement purchased with matching grant funds provided by the director under this section, including, without limitation, all of the following provisions:

- (a) A provision stating that an easement so purchased may be extinguished only if an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, or if the requirements of the easement are extinguished by judicial proceedings;

- (b) A provision requiring that, upon the sale, exchange, or involuntary

conversion of the land subject to the easement, the holder of the easement shall be paid an amount of money that is at least equal to the proportionate value of the easement compared to the total value of the land at the time the easement was acquired;

(c) A provision requiring that, upon receipt of the portion of the proceeds of a sale, exchange, or involuntary conversion described in division (A)(2)(b) of this section, the municipal corporation, county, township, or charitable organization remit to the director an amount of money equal to the percentage of the cost of purchasing the easement it received as a matching grant under this section.

Moneys received by the director pursuant to rules adopted under division (A)(2)(c) of this section shall be credited to the agricultural easement purchase fund created in section 901.21 of the Revised Code.

(3) Establish a provision that provides a charitable organization described in division (B) of section 5301.69 of the Revised Code, municipal corporation, township, or county with the option of purchasing agricultural easements either in installments or with a lump sum payment. The rules shall include a requirement that a charitable organization, municipal corporation, township, or county negotiate with the seller of the agricultural easement concerning any installment payment terms, including the dates and amounts of payments and the interest rate on the outstanding balance. The rules also shall require the director to approve any method of payment that is undertaken in accordance with the rules adopted under division (A)(3) of this section.

(4) Establish any other requirements that the director considers to be necessary or appropriate to implement or administer a program to make matching grants under this section and monitor those grants.

(B) The director may develop guidelines regarding the acquisition of agricultural easements by the department of agriculture and the provisions of instruments conveying those easements. The director may make the guidelines available to public and private entities authorized to acquire and hold agricultural easements.

(C) The director may provide technical assistance in developing a program for the acquisition and monitoring of agricultural easements to public and private entities authorized to hold agricultural easements. The technical assistance may include, without limitation, reviewing and providing advisory recommendations regarding draft instruments conveying agricultural easements.

(D) The director may make matching grants from the agricultural easement purchase fund and the clean Ohio agricultural easement fund to

municipal corporations, counties, townships, and charitable organizations described in division (B) of section 5301.69 of the Revised Code, to assist those political subdivisions and charitable organizations in purchasing agricultural easements. Application for a matching grant shall be made on forms prescribed and provided by the director. The matching grants shall be made in compliance with the criteria and procedures established in rules adopted under this section. Instruments conveying agricultural easements purchased with matching grant funds provided under this section, at a minimum, shall include the mandatory provisions set forth in those rules.

Matching grants made under this division using moneys from the clean Ohio agricultural easement fund created in section 901.21 of the Revised Code may provide up to seventy-five per cent of the value of an agricultural easement as determined by a general real estate appraiser who is certified under Chapter 4763. of the Revised Code. Not less than twenty-five per cent of the value of the agricultural easement shall be provided by the recipient of the matching grant or donated by the person who is transferring the easement to the grant recipient. The amount of such a matching grant used for the purchase of a single agricultural easement shall not exceed one million dollars.

(E) For any agricultural easement purchased with a matching grant that consists in whole or in part of moneys from the clean Ohio agricultural easement fund, the director shall be named as a grantee on the instrument conveying the easement, as shall the municipal corporation, county, township, or charitable organization that receives the grant.

(F)(1) The director shall monitor and evaluate the effectiveness and efficiency of the agricultural easement program as a farmland preservation tool. On or before July 1, 1999, and the first day of July of each year thereafter, the director shall prepare and submit a report to the chairpersons of the standing committees of the senate and the house of representatives that consider legislation regarding agriculture. The report shall consider and address the following criteria to determine the program's effectiveness:

(a) The number of agricultural easements purchased during the preceding year;

(b) The location of those easements;

(c) The number of acres of land preserved for agricultural use;

(d) The amount of money used by a municipal corporation, township, or county from its general fund or special fund to purchase the agricultural easements;

(e) The number of state matching grants given to purchase the agricultural easements;

(f) The amount of state matching grant moneys used to purchase the agricultural easements.

(2) The report also shall consider and include, at a minimum, the following information for each county to determine the program's efficiency:

(a) The total number of acres in the county;

(b) The total number of acres in current agricultural use;

(c) The total number of acres preserved for agricultural use in the preceding year;

(d) The average cost, per acre, of land preserved for agricultural use in the preceding year.

Sec. 901.63. (A) The agricultural financing commission shall do both of the following until ~~July 1, 2003~~ October 15, 2005:

(1) Make recommendations to the director of agriculture about financial assistance applications made pursuant to sections 901.80 to 901.83 of the Revised Code. In making its recommendations, the commission shall utilize criteria established by rules adopted under division (A)(8)(b) of section 901.82 of the Revised Code.

(2) Advise the director in the administration of sections 901.80 to 901.83 of the Revised Code.

With respect to sections 901.80 to 901.83 of the Revised Code, the role of the commission is solely advisory. No officer, member, or employee of the commission is liable for damages in a civil action for any injury, death, or loss to person or property that allegedly arises out of purchasing any loan or providing a loan guarantee, failure to purchase a loan or provide a loan guarantee, or failure to take action under sections 901.80 to 901.83 of the Revised Code, or that allegedly arises out of any act or omission of the department of agriculture that involves those sections.

(B) The commission may:

(1) Adopt bylaws for the conduct of its business;

(2) Exercise all rights, powers, and duties conferred on the commission as an issuer under Chapter 902. of the Revised Code;

(3) Contract with, retain, or designate financial consultants, accountants, and such other consultants and independent contractors as the commission may determine to be necessary or appropriate to carry out the purposes of this chapter and to fix the terms of those contracts;

(4) Undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the state relevant to the purpose of this chapter to the extent not otherwise undertaken by other departments or agencies of the state satisfactory for that purpose;

(5) Acquire by gift, purchase, foreclosure, or other means, and hold, assign, pledge, lease, transfer, or otherwise dispose of, real and personal property, or any interest in that real and personal property, in the exercise of its powers and the performance of its duties under this chapter and Chapter 902. of the Revised Code;

(6) Receive and accept gifts, grants, loans, or any other financial or other form of aid from any federal, state, local, or private agency or fund and enter into any contract with any such agency or fund in connection therewith, and receive and accept aid or contributions from any other source of money, property, labor, or things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made, all within the purposes of this chapter and Chapter 902. of the Revised Code;

(7) Sue and be sued in its own name with respect to its contracts or to enforce this chapter or its obligations or covenants made under this chapter and Chapter 902. of the Revised Code;

(8) Make and enter into all contracts, commitments, and agreements, and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this chapter and Chapter 902. of the Revised Code;

(9) Adopt an official seal;

(10) Do any and all things necessary or appropriate to carry out the public purposes and exercise the powers granted to the commission in this chapter and Chapter 902. of the Revised Code and the public purposes of Section 13 of Article VIII, Ohio Constitution.

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

Sec. 901.85. There is hereby created in the state treasury the farm service agency electronic filing fund, which shall consist of money reimbursed to the fund by the farm service agency in the United States department of agriculture together with any money appropriated to the fund by the general assembly. The director of agriculture shall use money credited to the fund to pay the secretary of state for fees that the secretary of state charges in advance for the electronic filing by the farm service agency of financing statements related to agricultural loans that the farm service agency disburses.

Sec. 902.11. (A) Any real or personal property, or both, of an issuer ~~which~~ that is acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, and leased or subleased under authority of this chapter shall be subject to ad valorem, sales, use, and

franchise taxes and to zoning, planning, and building regulations and fees, to the same extent and in the same manner as if the lessee-user or sublessee-user thereof, rather than the issuer, had acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, such real or personal property, and title thereto was in the name of such lessee-user or sublessee-user.

The transfer of tangible personal property by lease or sublease under authority of this chapter is not a sale as used in Chapter 5739. of the Revised Code. The exemptions provided in divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised Code shall not be applicable to purchases for a project under this chapter.

An issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under this chapter so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer but development has not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

(B) Bonds issued under this chapter, the transfer thereof, and the interest and other income from the bonds, including any profit made on the sale thereof, are free from taxation within the state.

Sec. 921.151. The pesticide program fund is hereby created in the state treasury. ~~All~~ The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section, and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section. The fund shall consist of fees collected under sections 921.01 to 921.15, division (F) of section 927.53, and section 927.69 of the Revised Code, money collected under section 927.701 of the Revised Code, and all fines, penalties, costs, and damages, except court costs, ~~which~~ that are collected by either the director of agriculture or the attorney general in consequence of any violation of sections 921.01 to 921.29 of the Revised

Code. Not later than the thirtieth day of June of each year, the director of budget and management shall determine whether the amount credited to the pesticide program fund under this chapter is in excess of the amount necessary to meet the expenses of the director of agriculture in administering this chapter and shall transfer any such excess from the pesticide program fund to the general revenue fund.

Sec. 927.53. (A) Each collector or dealer who sells, offers, or exposes for sale, or distributes nursery stock within this state, or ships nursery stock to other states, shall pay an annual license fee of fifty dollars to the director of agriculture for each place of business ~~he~~ the collector or dealer operates.

(B)(1) Each dealer shall furnish the director, annually, an affidavit that ~~he the dealer~~ will buy and sell only nursery stock which has been inspected and certified by an official state or federal inspector.

(2) Each dealer's license expires on the thirty-first day of December of each year. Each licensed dealer shall apply for renewal of ~~his~~ the dealer's license prior to the first day of January of each year and in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(C) Each licensed ~~nurseryman~~ nurseryperson shall post conspicuously in ~~his~~ the nurseryperson's principal place of business, the certificate which is issued to ~~him~~ the nurseryperson in accordance with section 927.61 of the Revised Code.

(D) Each licensed ~~nurseryman~~ nurseryperson, or dealer, shall post conspicuously in each place of business, each certificate or license which is issued to ~~him~~ the nurseryperson or dealer in compliance with this section or section 927.61 of the Revised Code.

(E)(1) Each ~~nurseryman~~ nurseryperson who produces, sells, offers for sale, or distributes woody nursery stock within the state, or ships woody nursery stock to other states, shall pay to the director an annual inspection fee of fifty dollars plus four dollars per acre, or fraction thereof, of growing nursery stock in intensive production areas and two dollars per acre, or fraction thereof, of growing nursery stock in nonintensive production areas, as applicable.

(2) Each ~~nurseryman~~ nurseryperson who limits ~~his~~ production and sales of nursery stock to brambles, herbaceous, perennial, and other nonwoody plants, shall pay to the director an inspection fee of thirty dollars, plus four dollars per acre, or fraction thereof, of growing nursery stock in intensive and nonintensive production areas.

(F) On and after the effective date of this amendment, the following additional fees shall be assessed:

(1) Each collector or dealer who pays a fee under division (A) of this section shall pay an additional fee of twenty-five dollars.

(2) Each nursery person who pays fees under division (E)(1) of this section shall pay additional fees as follows:

(a) Fifteen dollars for the inspection fee;

(b) Fifty cents per acre, or fraction thereof, of growing nursery stock in intensive production areas;

(c) One dollar and fifty cents per acre, or fraction thereof, of growing nursery stock in nonintensive production areas.

(3) Each nursery person who pays fees under division (E)(2) of this section shall pay additional fees as follows:

(a) Thirty-five dollars for the inspection fee;

(b) Fifty cents per acre, or fraction thereof, of growing stock in intensive and nonintensive production areas.

The fees collected under division (F) of this section shall be deposited into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Moneys so credited to the fund shall be used to pay the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors.

Sec. 927.69. To effect the purpose of sections 927.51 to 927.74, ~~inclusive~~, of the Revised Code, the director of agriculture, or ~~his~~ the director's authorized representative, may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article ~~which~~ that is subject to sections 927.51 to 927.72, ~~inclusive~~, of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

- (1) Phyto sanitary certificates, twenty-five dollars;
- (2) Compliance agreements, twenty dollars;
- (3) Solid wood packing certificates, twenty dollars;
- (4) Agricultural products and their conveyances inspections, sixty-five dollars.

The director may adopt rules under section 927.52 of the Revised Code that define the certificates, agreements, and inspections.

The fees shall be deposited into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Money credited to the fund shall be used to pay the costs incurred by the department of agriculture in administering this chapter, including employing a minimum of two additional inspectors.

Sec. 927.701. (A) As used in this section, "gypsy moth" means the live insect, *Lymantria dispar*, in any stage of development.

(B) The director of agriculture may establish a voluntary gypsy moth suppression program under which a landowner may request that the department of agriculture have the landowner's property aerially sprayed to suppress the presence of gypsy moths in exchange for payment from the landowner of a portion of the cost of the spraying. To determine the amount of payment that is due from a landowner, the department first shall determine the projected cost per acre to the department of gypsy moth suppression activities for the year in which the landowner's request is made. The cost shall be calculated by determining the total expense of aerial spraying for gypsy moths to be incurred by the department in that year divided by the total number of acres proposed to be sprayed in that year. With respect to a landowner, the department shall multiply the cost per acre by the number of acres that the landowner requests to be sprayed. The department shall add to that amount any administrative costs that it incurs in billing the landowner and collecting payment. The amount that the landowner shall pay to the department shall not exceed fifty per cent of the resulting amount.

(C) The director shall adopt rules under Chapter 119. of the Revised Code to establish procedures under which a landowner may make a request under division (B) of this section and to establish provisions governing agreements between the department and landowners concerning gypsy moth suppression together with any other provisions that the director considers appropriate to administer this section.

(D) The director shall deposit all money collected under this section into the state treasury to the credit of the pesticide program fund created in Chapter 921. of the Revised Code. Money credited to the fund under this

section shall be used for the suppression of gypsy moths in accordance with this section.

Sec. 929.01. As used in ~~Chapter 929. of the Revised Code~~ this chapter:

(A) "Agricultural production" means commercial aquaculture, apiculture, animal husbandry, or poultry husbandry; the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod; the growth of timber for a noncommercial purpose; if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices, provided that the tracts, lots, or parcels of land or portions thereof that are used for conservation practices comprise not more than twenty-five per cent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed under section 929.02 of the Revised Code.

(B) "Withdrawal from an agricultural district" includes the explicit removal of land from an agricultural district, conversion of land in an agricultural district to use for purposes other than agricultural production, and withdrawal of land from a land retirement or conservation program to use for ~~purposes~~ purposes other than agricultural production. Withdrawal from an agricultural district does not include land described in division (A)(4) of section 5713.30 of the Revised Code.

(C) "Conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

Sec. 955.51. (A) Any owner of horses, sheep, cattle, swine, mules, goats, domestic rabbits, or domestic fowl or poultry that have an aggregate fair market value of ten dollars or more and that have been injured or killed by a coyote or a black vulture shall notify the dog warden within three days after the loss or injury has been discovered. The dog warden promptly shall investigate the loss or injury and shall determine whether or not the loss or injury was made by a coyote or a black vulture. If the dog warden finds that the loss or injury was not made by a coyote or a black vulture, the owner has no claim under sections 955.51 to 955.53 of the Revised Code. If the dog warden finds that the loss or injury was made by a coyote or a black vulture, ~~he~~ the dog warden promptly shall notify the wildlife officer of that finding.

The wildlife officer then shall confirm the finding, disaffirm it, or state that ~~he the wildlife officer~~ is uncertain about the finding. If the wildlife officer affirms the finding of the dog warden or states that ~~he the wildlife officer~~ is uncertain about that finding, the owner may proceed with ~~his a~~ claim under sections 955.51 to 955.53 of the Revised Code, and the dog warden shall provide the owner with duplicate copies of the claim form provided for in section 955.53 of the Revised Code and assist ~~him the owner~~ in filling it out. The owner shall set forth the kind, grade, quality, and what ~~he the owner~~ has determined is the fair market value of the animals, fowl, or poultry, the nature and amount of the loss or injury, the place where the loss or injury occurred, and all other pertinent facts in the possession of the claimant. If the animals, fowl, or poultry die as a result of their injuries, their fair market value is the market value of uninjured animals, fowl, or poultry on the date of the death of the injured animals, fowl, or poultry. If the animals, fowl, or poultry do not die as a result of their injuries, their fair market value is their market value on the date on which they received their injuries.

(B) If the dog warden finds all the statements that the owner made on the form to be correct and agrees with the owner as to the fair market value of the animals, fowl, or poultry, ~~he the dog warden~~ promptly shall so certify and send both copies of the form, together with whatever other documents, testimony, or information ~~he the dog warden~~ has received relating to the loss or injury, to the department of agriculture.

(C) If the dog warden does not find all the statements to be correct or does not agree with the owner as to the fair market value, the owner may appeal to the department of agriculture for a determination of ~~his the owner's~~ claim. In that case the owner shall secure statements as to the nature and amount of the loss or injury from at least two witnesses who viewed the results of the killing or injury and who can testify about the results and shall submit both copies of the form to the department no later than twenty days after the loss or injury was discovered. The dog warden shall submit to the department whatever documents, testimony, and other information ~~he the dog warden~~ has received relating to the loss or injury. The department shall receive any other information or testimony that will enable it to determine the fair market value of the animals, fowl, or poultry injured or killed.

(D) If the animals, fowl, or poultry described in division (A) of this section are registered in any accepted association or registry, the owner or ~~his the owner's~~ employee or tenant shall submit with the claim form the registration papers showing the lines of breeding, age, and other relevant matters. If the animals are the offspring of registered stock and eligible for registration, the registration papers showing the breeding of the offspring

shall be submitted.

Sec. 1309.109. (A) Except as otherwise provided in divisions (C) and (D) of this section, this chapter applies to the following:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) An agricultural lien;

(3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(4) A consignment;

(5) A security interest arising under section 1302.42 or 1302.49, division (C) of section 1302.85, or division (E) of section 1310.54 of the Revised Code, as provided in section 1309.110 of the Revised Code; and

(6) A security interest arising under section 1304.20 or 1305.18 of the Revised Code.

(B) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(C) This chapter does not apply to the extent that:

(1) A statute, regulation, or treaty of the United States preempts this chapter; or

(2) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 1305.13 of the Revised Code.

(D) This chapter does not apply to the following:

(1) A landlord's lien, other than an agricultural lien;

(2)(a) A lien, not enumerated in division (D)(2) of this section and other than an agricultural lien, given by statute or other rule of law for services or materials, including any lien created under any provision of Chapter 926., sections 1311.55 to 1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter 4585. of the Revised Code;

(b) Notwithstanding division (D)(2)(a) of this section, section 1309.333 of the Revised Code applies with respect to priority of the lien.

(3) An assignment of a claim for wages, salary, or other compensation of an employee;

(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or set-off, but:

(a) Section 1309.340 of the Revised Code applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents under a lease, except to the extent that provision is made for:

(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;

(b) Fixtures in section 1309.334 of the Revised Code;

(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 1309.516, and 1309.519 of the Revised Code; and

(d) Security agreements covering personal and real property in section 1309.604 of the Revised Code.

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;

(13) An assignment of a deposit account in a consumer transaction, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds; or

(14) A transfer by a government, state, or governmental unit.

(E) The granting of a security interest in all or any part of a lottery prize award for consideration is subject to the prohibition of division ~~(A)(3)(C)~~ of section 3770.07 of the Revised Code. The sale, assignment, or other redirection of a lottery prize award for consideration is subject to the provisions of division ~~(A)(4)(D)~~ of section 3770.07 and sections 3770.10 to 3770.14 of the Revised Code.

Sec. 1317.07. No retail installment contract authorized by section

1317.03 of the Revised Code that is executed in connection with any retail installment sale shall evidence any indebtedness in excess of the time balance fixed in the written instrument in compliance with section 1317.04 of the Revised Code, but it may evidence in addition any agreements of the parties for the payment of delinquent charges, as provided for in section 1317.06 of the Revised Code, taxes, and any lawful fee actually paid out, or to be paid out, by the retail seller to any public officer for filing, recording, or releasing any instrument securing the payment of the obligation owed on any retail installment contract. No retail seller, directly or indirectly, shall charge, contract for, or receive from any retail buyer, any further or other amount for examination, service, brokerage, commission, expense, fee, or other thing of value. A documentary service charge customarily and presently being paid on May 9, 1949, in a particular business and area may be charged if the charge does not exceed ~~fifty~~ one hundred dollars per sale.

No retail seller shall use multiple agreements with respect to a single item or related items purchased at the same time, with intent to obtain a higher charge than would otherwise be permitted by Chapter 1317. of the Revised Code or to avoid disclosure of an annual percentage rate, nor by use of such agreements make any charge greater than that which would be permitted by Chapter 1317. of the Revised Code had a single agreement been used.

Sec. 1321.21. All fees, charges, penalties, and forfeitures collected under Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised Code shall be paid to the superintendent of financial institutions and shall be deposited by the superintendent into the state treasury to the credit of the consumer finance fund, which is hereby created. The fund may be expended or obligated by the superintendent for the defrayment of the costs of administration of Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised Code by the division of financial institutions. All actual and necessary expenses incurred by the superintendent, including any services rendered by the department of commerce for the division's administration of Chapters 1321., 1322., 4712., 4727., and 4728., sections 1315.21 to 1315.30, ~~and~~ sections 1315.35 to 1315.44, and sections 1349.25 to 1349.37 of the Revised Code, shall be paid from the fund. The fund shall be assessed a proportionate share of the administrative costs of the department and the division. The proportionate share of the administrative costs of the division of financial institutions shall be determined in accordance with procedures prescribed by the

superintendent and approved by the director of budget and management. Such assessment shall be paid from the consumer finance fund to the division of administration fund or the financial institutions fund.

Sec. 1333.99. (A) Whoever violates sections 1333.01 to 1333.04 of the Revised Code is guilty of a minor misdemeanor.

(B) Whoever violates section 1333.12 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 1333.36 of the Revised Code is guilty of a misdemeanor of the third degree.

(D) A prosecuting attorney may file an action to restrain any person found in violation of section 1333.36 of the Revised Code. Upon the filing of such an action, the common pleas court may receive evidence of such violation and forthwith grant a temporary restraining order as may be prayed for, pending a hearing on the merits of said cause.

(E) Whoever violates division (A)(1) of section 1333.52 or section 1333.81 of the Revised Code is guilty of a misdemeanor of the first degree.

(F) Whoever violates division (A)(2) or (B) of section 1333.52 ~~or division (F) or (H) of section 1333.96~~ of the Revised Code is guilty of a misdemeanor of the second degree.

(G) Except as otherwise provided in this division, whoever violates section 1333.92 of the Revised Code is guilty of a misdemeanor of the first degree. If the value of the compensation is five hundred dollars or more and less than five thousand dollars, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the fifth degree. If the value of the compensation is five thousand dollars or more and less than one hundred thousand dollars, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the fourth degree. If the value of the compensation is one hundred thousand dollars or more, whoever violates section 1333.92 of the Revised Code is guilty of a felony of the third degree.

~~(H) Whoever violates division (B), (C), or (I) of section 1333.96 of the Revised Code is guilty of a misdemeanor of the third degree.~~

~~(I) Any person not registered as a travel agency or tour promoter as provided in divisions (B) and (C) of section 1333.96 of the Revised Code who states that the person is so registered is guilty of a misdemeanor of the first degree.~~

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the Revised Code:

(A) "Adult" means a person who is eighteen years of age or older.

(B) "Attending physician" means the physician to whom a principal or the family of a principal has assigned primary responsibility for the

treatment or care of the principal or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(F) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

(G) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.

(H) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home;

(4) A home health agency;

(5) An intermediate care facility for the mentally retarded.

(I) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(J) "Home health agency" has the same meaning as in section ~~3701.88~~ 3701.881 of the Revised Code.

(K) "Hospice care program" has the same meaning as in section 3712.01

of the Revised Code.

(L) "Hospital" has the same meanings as in sections 2108.01, 3701.01, and 5122.01 of the Revised Code.

(M) "Hydration" means fluids that are artificially or technologically administered.

(N) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(O) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(P) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.

(Q) "Medical claim" has the same meaning as in section 2305.11 of the Revised Code.

(R) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(S) "Nutrition" means sustenance that is artificially or technologically administered.

(T) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.

(U) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(V) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(W) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(X) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Y) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a

reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(Z) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 1346.02. Any tobacco product manufacturer selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after ~~the effective date of this section~~ June 30, 1999 shall do one of the following:

(A) Become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(B)(1) Place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

1999: \$.0094241 per unit sold after ~~the effective date of this section~~ June 30, 1999;

2000: \$.0104712 per unit sold;

For each of 2001 and 2002: \$.0136125 per unit sold;

For each of 2003 through 2006: \$.0167539 per unit sold;

For each of 2007 and each year thereafter: \$.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to division (B)(1) of this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(a) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under division (B)(2)(a) of this section:

(i) In the order in which they were placed into escrow; and

(ii) Only to the extent and at the time necessary to make payments required under such judgment or settlement.

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the ~~state's allocable share of~~

~~the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (payments, as determined pursuant to section IX(i)(2) IX(i) of the Master Settlement that Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other the the inflation adjustment) including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold~~ had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(c) To the extent not released from escrow under division (B)(2)(a) or (b) of this section, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to division (B) of this section shall annually certify to the attorney general that it is in compliance with division (B) of this section. The attorney general may bring a civil action on behalf of the state against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall:

(a) Be required within fifteen days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of division (B) of this section, may impose a civil penalty to be paid to the general revenue fund of the state in an amount not to exceed five per cent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred per cent of the original amount improperly withheld from escrow;

(b) In the case of a knowing violation, be required within fifteen days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of division (B) of this section, may impose a civil penalty to be paid to the general revenue fund of the state in an amount not to exceed fifteen per cent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred per cent of the original amount improperly withheld from escrow; and

(c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two years.

Each failure to make an annual deposit required under this section shall

constitute a separate violation.

Sec. 1346.04. As used in this section and sections 1346.05 to 1346.10 of the Revised Code:

(A) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s." "Brand family" includes cigarettes sold under any brand name (whether that name is used alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or other indicia of product identification identical or similar to, or identifiable with, a previous brand of cigarettes.

(B) "Cigarette," "Master Settlement Agreement," "qualified escrow fund," "tobacco product manufacturer," and "units sold" have the same meanings as in section 1346.01 of the Revised Code.

(C) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(D) "Participating manufacturer" means a participating manufacturer as that term is defined in section II(jj) of the Master Settlement Agreement and all amendments to that agreement.

(E) "Stamping agent" means a person who is authorized to affix tax stamps to packages or other containers of cigarettes under section 5743.03 of the Revised Code or a person who is required to pay the excise tax imposed on cigarettes and other tobacco products under sections 5743.03 and 5743.51 of the Revised Code.

Sec. 1346.05. (A)(1) Every tobacco product manufacturer whose cigarettes are sold in this state either directly or through a distributor, retailer, or other intermediary shall execute and deliver to the attorney general an annual certification, made under penalty of falsification, stating that, as of the date of the certification, the tobacco manufacturer is either a participating manufacturer or a nonparticipating manufacturer in full compliance with section 1346.02 of the Revised Code, including full compliance with all quarterly installment payment requirements, if required to make such payments by an administrative rule adopted by the attorney general. The certification shall be on a form prescribed by the attorney general and shall be filed not later than the thirtieth day of April in each year.

(2) Each participating manufacturer shall include in its certification a list of its brand families. Thirty days before making any additions to or modifications of its brand families, a participating manufacturer shall update its brand family list by executing and delivering a supplemental certification

to the attorney general.

(3) Each nonparticipating manufacturer shall include all of the following in its certification:

(a) A list of all of its brand families and the number of units sold during the preceding calendar year for each brand family, and a list of all of its brand families that have been sold in the state at any time during the current calendar year. The list shall indicate, by an asterisk, any brand family that was sold in the state during the preceding calendar year and that is no longer being sold in the state as of the date of the certification. The list shall identify by name and address any other manufacturer in the preceding or current year of the brand families included on the list. Thirty days before making any additions to or modifications of its brand families, a nonparticipating manufacturer shall update its brand family list by executing and delivering a supplemental certification to the attorney general.

(b) A statement that the nonparticipating manufacturer is registered to do business in this state, or has appointed an agent for service of process in this state and provided notice of that appointment as required by section 1346.06 of the Revised Code;

(c) A certification that the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund under section 1346.02 of the Revised Code and that the qualified escrow fund is governed by a qualified escrow agreement executed by the nonparticipating manufacturer and reviewed and approved by the attorney general;

(d) All of the following information regarding the qualified escrow fund the nonparticipating manufacturer is required to establish and maintain under section 1346.02 of the Revised Code and the rules adopted under that section:

(i) The name, address, and telephone number of the financial institution at which the nonparticipating manufacturer has established its qualified escrow fund;

(ii) The account number of the qualified escrow fund and any subaccount number for the state;

(iii) The amount that the nonparticipating manufacturer deposited in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification the attorney general deems necessary to confirm those deposits;

(iv) The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from any qualified escrow fund into which it ever made payments under section 1346.02 of the Revised Code and the rules adopted under that section.

(e) A statement that the nonparticipating manufacturer is in full compliance with this section and sections 1346.02, 1346.06, and 1346.07 of the Revised Code and any rules adopted under those sections.

(4)(a) No tobacco product manufacturer shall include a brand family in its certification unless either of the following applies:

(i) In the case of a participating manufacturer, the participating manufacturer affirms that the cigarettes in the brand family shall be deemed to be its cigarettes for the purpose of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to that agreement.

(ii) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the cigarettes in the brand family shall be deemed to be its cigarettes for the purpose of section 1346.02 of the Revised Code.

(b) Nothing in this section limits or shall be construed to limit the state's authority to determine that the cigarettes in a brand family constitute the cigarettes of another tobacco product manufacturer for the purpose of calculating payments under the Master Settlement Agreement or for the purpose of section 1346.02 of the Revised Code.

(5) Each tobacco product manufacturer shall maintain all invoices and documentations of sales and other information relied upon for its certification for a period of at least five years.

(B)(1) Except as otherwise provided in division (B)(3) of this section, the attorney general shall develop and publish on its web site a directory listing all tobacco product manufacturers that have provided current and accurate certifications under division (A) of this section and all brand families listed in those certifications.

(2)(a) The attorney general shall update the directory as necessary to correct mistakes or to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section. At least ten days before any tobacco product manufacturer or brand family is added to or removed from the directory, the attorney general shall publish notice of the pending addition or removal online in the directory and shall notify the tax commissioner of those pending changes. At least ten days before such addition or removal, the tax commissioner shall transmit by electronic mail or other practicable means to each stamping agent notice of the pending addition or removal.

(b) Unless an agreement between a stamping agent and a tobacco product manufacturer provides otherwise, a tobacco product manufacturer that is removed from the directory or whose brand family is removed from the directory shall refund to the stamping agent any money paid by the

stamping agent to the tobacco product manufacturer for cigarettes of that tobacco product manufacturer that are in the possession of the stamping agent at the time the stamping agent receives notice of the pending removal of the tobacco product manufacturer or a brand family of that tobacco product manufacturer from the directory under division (B)(2)(a) of this section.

(c) The tax commissioner shall notify the attorney general of any tobacco product manufacturer that fails to refund money to a stamping agent under division (B)(2)(b) of this section. The attorney general shall not restore to the directory any tobacco product manufacturer or brand family of a tobacco product manufacturer until the tobacco product manufacturer has paid the stamping agent any required refund. Once a required refund has been so paid, the tax commissioner shall notify the attorney general of that payment.

(3) The attorney general shall not include or retain in the directory a nonparticipating manufacturer or a brand family of a nonparticipating manufacturer if any of the following applies:

(a) The nonparticipating manufacturer fails to provide the required certification under this section, or the attorney general determines that the certification is not in compliance with the requirements of this section, unless the attorney general determines that the violation has been cured to the attorney general's satisfaction.

(b) The attorney general determines that any escrow payment required under section 1346.02 of the Revised Code for any period for any brand family of the nonparticipating manufacturer, regardless of whether the brand family is listed by the nonparticipating manufacturer in its certification under this section, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general.

(c) The attorney general determines that the nonparticipating manufacturer has not fully satisfied any outstanding final judgment, including interest, for a violation of section 1346.02 of the Revised Code.

(4) Each stamping agent shall provide an electronic mail address to the tax commissioner for the purpose of receiving notifications under division (B)(2) of this section. As necessary, each stamping agent shall update the agent's electronic mail address with the tax commissioner.

(C)(1) No person shall do any of the following:

(a) Affix a tax stamp to a package or other container of cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory;

(b) Sell, offer for sale, or possess for sale in this state cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory;

(c) Sell or distribute cigarettes that have had a tax stamp affixed while the tobacco product manufacturer or brand family of those cigarettes was not included in the directory;

(d) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state and that have had a tax stamp affixed while the tobacco product manufacturer or brand family of those cigarettes was not included in the directory;

(e) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state and that are the cigarettes of a tobacco product manufacturer or a brand family that is not included in the directory.

(2) Except as otherwise provided in this division, a violation of division (C)(1) of this section is a misdemeanor of the first degree. If the offender has a previous conviction for a violation of that division, a violation of division (C)(1) of this section is a felony of the fourth degree.

(3) Any cigarettes sold, offered for sale, or possessed for sale in violation of division (C)(1) of this section shall be considered contraband under section 5743.21 of the Revised Code, and those cigarettes shall be subject to seizure and forfeiture under that section. Cigarettes so seized and forfeited shall not be resold and shall be destroyed.

Sec. 1346.06. (A)(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity, as a condition precedent to having its brand families included or retained in the directory developed and published by the attorney general under section 1346.05 of the Revised Code, shall appoint, and continually engage without interruption the services of, an agent in the state to act as agent for the service, in any manner authorized by law, of all process pertaining to any action or proceeding in the courts of this state against the manufacturer concerning or arising out of the enforcement of this chapter.

(2) Service on a nonparticipating manufacturer's agent shall constitute legal and valid service of process on the manufacturer.

(3) A nonparticipating manufacturer shall provide the attorney general, to the satisfaction of the attorney general, with proof of the appointment of, and notice of the name, address, telephone number, and availability of, the manufacturer's agent.

(B)(1) If a nonparticipating manufacturer decides to terminate its agent's appointment, the manufacturer shall provide notice of the termination to the attorney general thirty calendar days prior to the termination and shall provide proof, to the satisfaction of the attorney general, of the appointment of a new agent not less than five calendar days prior to the termination.

(2) If a nonparticipating manufacturer's agent terminates the agent's appointment, the manufacturer shall provide notice of the termination to the attorney general and include proof, to the satisfaction of the attorney general, of the appointment of a new agent within five calendar days of the termination.

(C)(1) Any nonparticipating manufacturer whose cigarettes are sold in the state and who has not appointed and continually engaged an agent in accordance with divisions (A) and (B) of this section shall be deemed to have appointed the secretary of state as the manufacturer's agent and may be proceeded against in any action or proceeding in the courts of the state described in division (A) of this section by service of process on the secretary of state.

(2) The deemed appointment of the secretary of state as a nonparticipating manufacturer's agent does not satisfy the requirements of divisions (A)(3)(b) and (B)(1) of section 1346.05 of the Revised Code that a nonparticipating manufacturer that has not registered to do business in the state shall appoint an agent for service of process as a condition precedent to the existence of an accurate certification permitting the manufacturer's brand families to be included or retained in the directory.

Sec. 1346.07. (A) Not later than the last day of each month or less frequently if so directed by the tax commissioner, each stamping agent shall submit information for the previous month or for the relevant time period, if directed by the tax commissioner to make the submission less frequently, which the tax commissioner requires to facilitate compliance with sections 1346.05 to 1346.10 of the Revised Code. The information shall include, but is not limited to, a list by brand family of the total number of cigarettes, or, in the case of roll-your-own, the equivalent stick count, for which the stamping agent during the period covered by the report affixed stamps or otherwise paid the tax due.

The stamping agent shall maintain and make available to the tax commissioner all invoices and documentations of sales of all nonparticipating manufacturer cigarettes and any other information the agent relies upon in submitting information under this division to the tax commissioner. This duty shall be for a period of five years from the date of each submission of information under this division.

(B) The attorney general at any time may require a nonparticipating manufacturer to provide proof, from the financial institution in which the manufacturer has established a qualified escrow fund under section 1346.02 of the Revised Code, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit in the fund, and the amount and date of each withdrawal from the fund.

(C) In addition to the information required to be submitted or provided to the tax commissioner and the attorney general under divisions (A) and (B) of this section, the attorney general may require a stamping agent or tobacco product manufacturer to submit any additional information necessary to enable the attorney general to determine whether a manufacturer is in compliance with sections 1346.05 to 1346.10 of the Revised Code. The information shall include, but is not limited to, samples of the packaging or labeling of each brand family.

(D) The tax commissioner and the attorney general shall share information received under sections 1346.05 to 1346.10 of the Revised Code for purposes of determining compliance with and enforcement of those sections. The tax commissioner and the attorney general also may share information received under these sections with federal, state, or local agencies for purposes of the enforcement of this chapter or corresponding laws of other states.

Sec. 1346.08. (A) The tax commissioner and the attorney general may adopt administrative rules necessary to implement sections 1346.05 to 1346.10 of the Revised Code.

(B) Subject to the requirements of section 1346.05 of the Revised Code, the attorney general may adopt an administrative rule requiring a tobacco product manufacturer to make required escrow deposits in quarterly installments during the year in which the sales covered by the deposits are made. If the attorney general adopts such a rule, the tax commissioner may require a tobacco product manufacturer or a stamping agent to produce information sufficient to enable the tax commissioner and the attorney general to determine the adequacy of the amount of an installment deposit.

Sec. 1346.09. (A) The attorney general, on behalf of the tax commissioner, may seek an injunction to restrain a threatened or actual violation of division (C)(1) of section 1346.05 of the Revised Code or division (A) or (C) of section 1346.07 of the Revised Code by a stamping agent and to compel the stamping agent to comply with those divisions.

(B) In any action brought by the state to enforce sections 1346.05 to 1346.10 of the Revised Code, the state shall be entitled to recover the costs of the investigation, expert witness fees, court costs, and reasonable

attorney's fees.

(C) If a court determines that a person has violated any prohibition or other provision of sections 1346.05 to 1346.10 of the Revised Code, the court shall order that the person's profits, gain, gross receipts, or other benefit from the violation be disgorged and paid to the general revenue fund of the state.

(D) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the state.

Sec. 1346.10. (A) In lieu of or in addition to any other remedy provided by law, upon a determination that a stamping agent has violated division (C)(1) of section 1346.05 of the Revised Code or any administrative rule adopted under sections 1346.05 to 1346.10 of the Revised Code, the tax commissioner may revoke the license of the stamping agent in the manner provided by section 5743.18 of the Revised Code.

(B) For each violation of division (C)(1) of section 1346.05 of the Revised Code, in addition to any other penalty provided by law, the tax commissioner may impose a fine in an amount not to exceed the greater of five hundred per cent of the retail value of the cigarettes involved or five thousand dollars. The fine shall be imposed in the manner provided by section 5743.081 of the Revised Code.

For the purpose of this division, each stamp affixed to a package of cigarettes and each sale or offer for sale of cigarettes in violation of division (C)(1) of section 1346.05 of the Revised Code shall constitute a separate violation.

Sec. 1501.04. There is hereby created in the department of natural resources a recreation and resources commission composed of the ~~chairman~~ chairperson of the wildlife council created under section 1531.03 of the Revised Code, the ~~chairman~~ chairperson of the parks and recreation council created under section 1541.40 of the Revised Code, the ~~chairman~~ chairperson of the waterways safety council created under section 1547.73 of the Revised Code, the ~~chairman~~ chairperson of the technical advisory council on oil and gas created under section 1509.38 of the Revised Code, the chairman of the forestry advisory council created under section 1503.40 of the Revised Code, the ~~chairman~~ chairperson of the Ohio soil and water conservation commission created under section 1515.02 of the Revised Code, the ~~chairman~~ chairperson of the Ohio natural areas council created under section 1517.03 of the Revised Code, the ~~chairman~~ chairperson of the Ohio water advisory council created under section 1521.031 of the Revised Code, the chairperson of the recycling and litter prevention advisory council

created under section 1502.04 of the Revised Code, ~~the chairperson of the civilian conservation advisory council created under section 1553.10 of the Revised Code,~~ the ~~chairman~~ chairperson of the Ohio geology advisory council created under section 1505.11 of the Revised Code, and five members appointed by the governor with the advice and consent of the senate, not more than three of whom shall belong to the same political party. The director of natural resources shall be an ex officio member of the commission, with a voice in its deliberations, but without the power to vote.

Terms of office of members of the commission appointed by the governor shall be for five years, commencing on the second day of February and ending on the first day of February. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed.

In the event of the death, removal, resignation, or incapacity of a member of the commission, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which ~~his~~ the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor may remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance in office.

The commission shall exercise no administrative function, but may:

(A) Advise with and recommend to the director ~~of natural resources~~ as to plans and programs for the management, development, utilization, and conservation of the natural resources of the state;

(B) Advise with and recommend to the director as to methods of coordinating the work of the divisions of the department;

(C) Consider and make recommendations upon any matter ~~which~~ that the director may submit to it;

(D) Submit to the governor biennially recommendations for amendments to the conservation laws of the state.

~~Before~~ Each member of the commission, before entering upon the discharge of ~~his~~ the member's duties, ~~each member of the commission~~ shall take and subscribe to an oath of office, which oath, in writing, shall be filed in the office of the secretary of state.

The members of the commission shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the performance of their official duties.

The commission, by a majority vote of all its members, shall adopt and

amend bylaws.

To be eligible for appointment, a person shall be a citizen of the United States and an elector of the state and shall possess a knowledge of and have an interest in the natural resources of this state.

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a ~~chairman~~ chairperson to preside over its meetings and a secretary to keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring therein.

Sec. 1501.25. (A) There is hereby created the Muskingum river advisory council consisting of the following members:

(1) Two members of the house of representatives, one from each party to be appointed by the speaker of the house of representatives after conferring with the minority leader of the house, and two members of the senate, one from each party to be appointed by the president of the senate after conferring with the minority leader of the senate;

(2) Four persons interested in the development of recreational and commercial uses of the Muskingum river, to be appointed by the governor;

(3) Two representatives of the department of natural resources to be appointed by the director of natural resources, one representative of the department of development to be appointed by the director of development, one representative of the environmental protection agency to be appointed by the director of environmental protection, one representative of the department of transportation to be appointed by the director of transportation, and one representative of the Ohio historical society to be appointed by the director of the society;

(4) Twelve persons to be appointed from the four counties through which the Muskingum river flows, who shall be appointed in the following manner. The board of county commissioners of Coshocton county shall appoint two members, and the mayor of the city of Coshocton shall appoint one member. The board of county commissioners of Muskingum county shall appoint two members, and the mayor of the city of Zanesville shall appoint one member. The board of county commissioners of Morgan county shall appoint two members, and the mayor of the city of McConnelsville shall appoint one member. The board of county commissioners of Washington county shall appoint two members, and the mayor of the city of

Marietta shall appoint one member.

(5) One member representing the Muskingum watershed conservancy district, to be appointed by the board of directors of the district.

Members shall serve at the pleasure of their appointing authority. Vacancies shall be filled in the manner of the original appointment.

The council biennially shall elect from among its members a chairperson and a vice-chairperson. One of the representatives of the department of natural resources shall serve as secretary of the council unless a majority of the members elect another member to that position. The council shall meet at least once each year for the purpose of taking testimony from residents of the Muskingum river area, users of the river and adjacent lands, and the general public and may hold additional meetings at the call of the chairperson.

The chairperson may appoint members of the council and other persons to committees and study groups as needed.

The council shall submit an annual report to the general assembly, the governor, and the director of natural resources. The report shall include, without limitation, a description of the conditions of the Muskingum river area, a discussion of the council's activities, any recommendations for actions by the general assembly or any state agency that the council determines are needed, and estimates of the costs of those recommendations.

The department of natural resources shall provide staff assistance to the council as needed.

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

(1) Provide coordination among political subdivisions, state agencies, and federal agencies involved in dredging, debris removal or disposal, and recreational, commercial, tourism, and economic development;

(2) Provide aid to civic groups and individuals who want to make improvements to the Muskingum river if the council determines that the improvements would be beneficial to the residents of the area and to the state;

(3) Provide information and planning aid to state and local agencies responsible for historic, commercial, and recreational development of the Muskingum river area, including, without limitation, suggestions as to priorities for pending Muskingum river projects of the department of natural resources;

(4) Provide updated information to the United States army corps of engineers, the department of natural resources, and the Muskingum conservancy district established under Chapter 6101. of the Revised Code concerning potential hazards to flood control or navigation, erosion

problems, debris accumulation, and deterioration of locks or dams.

Sec. 1503.05. (A) The chief of the division of forestry may sell timber and other forest products from the state forest and state forest nurseries whenever the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state.

(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on completion of the timber sale in accordance with the terms of the agreement in an amount equal to twenty-five per cent of the highest value cutting section. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

In lieu of a bond, the bidder may deposit any of the following:

- (1) Cash in an amount equal to the amount of the bond;
- (2) United States government securities having a par value equal to or greater than the amount of the bond;
- (3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state having a par value equal to or greater than the amount of the bond.

The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.

Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited. The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the

written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by their issuer, the treasurer of state, at the request of the bidder who deposited them, shall convert the proceeds of the redemption or payment of the securities into other United States government securities, negotiable certificates of deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of the person's or governmental agency's bond, the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands and state forest nurseries under terms that are advantageous to the state, and the chief may grant mineral rights on a royalty basis on those lands and nurseries, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from those lands or from state forest nurseries, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. All moneys received from the sale of standing timber taken from the state forest lands shall be deposited into the state treasury. Twenty-five per cent of the moneys so deposited shall be credited to the state forest fund. Seventy-five per cent of the moneys so deposited shall be credited to the general revenue fund. All moneys received from the sale of forest products, other than standing timber, and minerals

taken from the state forest lands and state forest nurseries, together with royalties from mineral rights, shall be paid into the state treasury to the credit of the state forest fund.

At the time of making such a ~~payment or~~ deposit into the state treasury to the credit of the general revenue fund, the chief shall determine the amount and ~~gross net~~ value of all such ~~products~~ standing timber sold ~~or royalties received~~ from lands and nurseries in each county, in each township within the county, and in each school district within the county. Afterward the chief shall send to each county treasurer a copy of the determination and shall provide for payment to the county treasurer, for the use of the general fund of that county from the amount so received as provided in this division, an amount equal to ~~eighty~~ sixty-five per cent of the ~~gross net~~ value of the ~~products~~ standing timber sold ~~or royalties received~~ from lands and nurseries located in that county. The county auditor shall do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands and nurseries one-fourth of the amount received by the county from ~~products~~ standing timber sold ~~or royalties received~~ from lands and nurseries located in the township;

(3) Request the board of education of any school district located within the county and containing such lands and nurseries to identify which fund or funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from ~~products~~ standing timber sold ~~or royalties received~~ from lands and nurseries located in the school district, distributed proportionately as identified by the board.

The division of forestry shall not supply logs, lumber, or other forest products or minerals, taken from the state forest lands or state forest nurseries, to any other agency or subdivision of the state unless payment is made therefor in the amount of the actual prevailing value thereof. This section is applicable to the moneys so received. All moneys received from the sale of reforestation tree stock or other revenues derived from the operation of the state forests, facilities, or equipment shall be paid into the state forest fund.

The fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident to them, or for the further purchase of lands for state

forest or forest nursery purposes.

Sec. 1513.05. There is hereby created a reclamation commission consisting of seven members appointed by the governor with the advice and consent of the senate. For the purposes of hearing appeals under section 1513.13 of the Revised Code that involve mine safety issues, the reclamation commission shall consist of two additional members appointed specifically for that function by the governor with the advice and consent of the senate. All terms of office shall be for five years, commencing on the twenty-ninth day of June and ending on the twenty-eighth day of June. Each member shall hold office from the date of appointment until the end of the term for which the appointment was made. Each vacancy occurring on the commission shall be filled by appointment within sixty days after the vacancy occurs. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Two of the appointees to the commission shall be persons who, at the time of their appointment, own and operate a farm or are retired farmers. Notwithstanding section 1513.04 of the Revised Code, one of the appointees to the commission shall be a person who, at the time of appointment, is the representative of an operator of a coal mine. One of the appointees to the commission shall be a person who, by reason of the person's previous vocation, employment, or affiliations, can be classed as a representative of the public. One of the appointees to the commission shall be a person who, by reason of previous training and experience, can be classed as one learned and experienced in modern forestry practices. One of the appointees to the commission shall be a person who, by reason of previous training and experience, can be classed as one learned and experienced in agronomy. One of the appointees to the commission shall be either a person who, by reason of previous training and experience, can be classed as one capable and experienced in earth-grading problems, or a civil engineer. Beginning not later than five years after the effective date of this amendment, at least one of the seven appointees to the commission shall be an attorney at law who is admitted to practice in this state and is familiar with mining issues. Not more than four members shall be members of the same political party.

The two additional members of the commission who are appointed specifically to hear appeals that involve mine safety issues shall be individuals who, because of previous vocation, employment, or affiliation,

can be classified as representatives of employees currently engaged in mining operations. One shall be a representative of coal miners, and one shall be a representative of aggregates miners. Prior to making the appointment, the governor shall request the highest ranking officer in the major employee organization representing coal miners in this state to submit to the governor the names and qualifications of three nominees and shall request the highest ranking officer in the major employee organization representing aggregates miners in this state to do the same. The governor shall appoint one person nominated by each organization to the commission. The nominees shall have not less than five years of practical experience in dealing with mine health and safety issues and at the time of the nomination shall be employed in positions that involve the protection of the health and safety of miners. The major employee organization representing coal miners and the major employee organization representing aggregates miners shall represent a membership consisting of the largest number of coal miners and aggregates miners, respectively, in this state compared to other employee organizations in the year prior to the year in which the appointments are made.

When the commission hears an appeal that involves a coal mining safety issue, one of the commission members who owns and operates a farm or is a retired farmer shall be replaced by the additional member who is a representative of coal miners. When the commission hears an appeal that involves an aggregates mining safety issue, one of the commission members who owns and operates a farm or is a retired farmer shall be replaced by the additional member who is a representative of aggregates miners. Neither of the additional members who are appointed specifically to hear appeals that involve mine safety issues shall be considered to be members of the commission for any other purpose, and they shall not participate in any other matters that come before the commission.

The commission may appoint a secretary to hold office at its pleasure. A commission member may serve as secretary. The secretary shall perform such duties as the commission prescribes, and shall receive such compensation as the commission fixes in accordance with such schedules as are provided by law for the compensation of state employees.

The commission shall appoint one or more hearing officers who shall be attorneys at law admitted to practice in this state to conduct hearings under this chapter.

Four members constitute a quorum, and no action of the commission shall be valid unless it has the concurrence of at least four members. The commission shall keep a record of its proceedings.

Each member shall be paid as compensation for work as a member one hundred fifty dollars per day when actually engaged in the performance of work as a member and when engaged in travel necessary in connection with such work. In addition to such compensation each member shall be reimbursed for all traveling, hotel, and other expenses, in accordance with the current travel rules of the office of budget and management, necessarily incurred in the performance of the member's work as a member.

Annually one member shall be elected as chairperson and another member shall be elected as vice-chairperson for terms of one year.

The governor may remove any member of the commission from office for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance, after delivering to the member the charges against the member in writing with at least ten days' written notice of the time and place at which the governor will publicly hear the member, either in person or by counsel, in defense of the charges against the member. If the member is removed from office, the governor shall file in the office of the secretary of state a complete statement of the charges made against the member and a complete report of the proceedings. The action of the governor removing a member from office is final.

The commission shall adopt rules governing procedure of appeals under section 1513.13 of the Revised Code and may, for its own internal management, adopt rules that do not affect private rights.

Sec. 1515.08. The supervisors of a soil and water conservation district have the following powers in addition to their other powers:

(A) To conduct surveys, investigations, and research relating to the character of soil erosion, floodwater and sediment damages, and the preventive and control measures and works of improvement for flood prevention and the conservation, development, utilization, and disposal of water needed within the district, and to publish the results of those surveys, investigations, or research, provided that no district shall initiate any research program except in cooperation or after consultation with the Ohio agricultural research and development center;

(B) To develop plans for the conservation of soil resources, for the control and prevention of soil erosion, and for works of improvement for flood prevention and the conservation, development, utilization, and disposal of water within the district, and to publish those plans and information;

(C) To implement, construct, repair, maintain, and operate preventive and control measures and other works of improvement for natural resource conservation and development and flood prevention, and the conservation,

development, utilization, and disposal of water within the district on lands owned or controlled by this state or any of its agencies and on any other lands within the district, which works may include any facilities authorized under state or federal programs, and to acquire, by purchase or gift, to hold, encumber, or dispose of, and to lease real and personal property or interests in such property for those purposes;

(D) To cooperate or enter into agreements with any occupier of lands within the district in the carrying on of natural resource conservation operations and works of improvement for flood prevention and the conservation, development, utilization, and management of natural resources within the district, subject to such conditions as the supervisors consider necessary;

(E) To accept donations, gifts, grants, and contributions in money, service, materials, or otherwise, and to use or expend them according to their terms;

(F) To adopt, amend, and rescind rules to carry into effect the purposes and powers of the district;

(G) To sue and plead in the name of the district, and be sued and impleaded in the name of the district, with respect to its contracts and, as indicated in section 1515.081 of the Revised Code, certain torts of its officers, employees, or agents acting within the scope of their employment or official responsibilities, or with respect to the enforcement of its obligations and covenants made under this chapter;

(H) To make and enter into all contracts, leases, and agreements and execute all instruments necessary or incidental to the performance of the duties and the execution of the powers of the district under this chapter, provided that all of the following apply:

(1) Except as provided in section 307.86 of the Revised Code regarding expenditures by boards of county commissioners, when the cost under any such contract, lease, or agreement, other than compensation for personal services or rental of office space, involves an expenditure of more than the amount established in that section regarding expenditures by boards of county commissioners, the supervisors shall make a written contract with the lowest and best bidder after advertisement, for not less than two nor more than four consecutive weeks preceding the day of the opening of bids, in a newspaper of general circulation within the district and in such other publications as the supervisors determine. The notice shall state the general character of the work and materials to be furnished, the place where plans and specifications may be examined, and the time and place of receiving bids.

(2) Each bid for a contract shall contain the full name of every person interested in it.

(3) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code.

(4) Each bid for a contract, other than a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, at the discretion of the supervisors, may be accompanied by a bond or certified check on a solvent bank in an amount not to exceed five per cent of the bid, conditioned that, if the bid is accepted, a contract shall be entered into.

(5) The supervisors may reject any and all bids.

(I) To make agreements with the department of natural resources giving it control over lands of the district for the purpose of construction of improvements by the department under section 1501.011 of the Revised Code;

(J) To charge, alter, and collect rentals and other charges for the use or services of any works of the district;

(K) To enter, either in person or by designated representatives, upon lands, private or public, in the necessary discharge of their duties;

(L) To enter into agreements or contracts with the department for the determination, implementation, inspection, and funding of agricultural pollution abatement and urban sediment pollution abatement measures whereby landowners, operators, managers, and developers may meet adopted state standards for a quality environment, except that failure of a district board of supervisors to negotiate an agreement or contract with the department shall authorize the division of soil and water conservation to implement the required program;

(M) To conduct demonstrations and provide information to the public regarding practices and methods for natural resource conservation, development, and utilization;

(N) Until June 1, 1996, to conduct surveys and investigations relating to the incidence of the multiflora rose within the district and of the nature and extent of the adverse effects of the multiflora rose on agriculture, forestry, recreation, and other beneficial land uses;

(O) Until June 1, 1996, to develop plans for the control of the multiflora rose within the district and to publish those plans and information related to control of the multiflora rose;

(P) Until June 1, 1996, to enter into contracts or agreements with the chief of the division of soil and water conservation to implement and administer a program for control of the multiflora rose and to receive and

expend funds provided by the chief for that purpose;

(Q) Until June 1, 1996, to enter into cost-sharing agreements with landowners for control of the multiflora rose. Before entering into any such agreement, the board of supervisors shall determine that the landowner's application meets the eligibility criteria established under division (E)(6) of section 1511.02 of the Revised Code. The cost-sharing agreements shall contain the contract provisions required by the rules adopted under that division and such other provisions as the board of supervisors considers appropriate to ensure effective control of the multiflora rose.

(R) To enter into contracts or agreements with the chief to implement and administer a program for urban sediment pollution abatement and to receive and expend moneys provided by the chief for that purpose;

(S) To develop operation and management plans, as defined in section 1511.01 of the Revised Code, as necessary;

(T) To determine whether operation and management plans developed under division (A) of section 1511.021 of the Revised Code comply with the standards established under division (E)(1) of section 1511.02 of the Revised Code and to approve or disapprove the plans, based on such compliance. If an operation and management plan is disapproved, the board shall provide a written explanation to the person who submitted the plan. The person may appeal the plan disapproval to the chief, who shall afford the person a hearing. Following the hearing, the chief shall uphold the plan disapproval or reverse it. If the chief reverses the plan disapproval, the plan shall be deemed approved under this division. In the event that any person operating or owning agricultural land or a concentrated animal feeding operation in accordance with an approved operation and management plan who, in good faith, is following that plan, causes agricultural pollution, the plan shall be revised in a fashion necessary to mitigate the agricultural pollution, as determined and approved by the board of supervisors of the soil and water conservation district.

(U) With regard to composting conducted in conjunction with agricultural operations, to do all of the following:

(1) Upon request or upon their own initiative, inspect composting at any such operation to determine whether the composting is being conducted in accordance with section 1511.022 of the Revised Code;

(2) If the board determines that composting is not being so conducted, request the chief to issue an order under division (G) of section 1511.02 of the Revised Code requiring the person who is conducting the composting to prepare a composting plan in accordance with rules adopted under division (E)(10)(c) of that section and to operate in accordance with that plan or to

operate in accordance with a previously prepared plan, as applicable;

(3) In accordance with rules adopted under division (E)(10)(c) of section 1511.02 of the Revised Code, review and approve or disapprove any such composting plan. If a plan is disapproved, the board shall provide a written explanation to the person who submitted the plan.

As used in division (U) of this section, "composting" has the same meaning as in section 1511.01 of the Revised Code.

(V) With regard to conservation activities that are conducted in conjunction with agricultural operations, to assist the county auditor, upon request, in determining whether a conservation activity is a conservation practice for purposes of Chapter 929. or sections 5713.30 to 5713.37 and 5715.01 of the Revised Code.

As used in this division, "conservation practice" has the same meaning as in section 5713.30 of the Revised Code.

(W) To do all acts necessary or proper to carry out the powers granted in this chapter.

The director of natural resources shall make recommendations to reduce the adverse environmental effects of each project that a soil and water conservation district plans to undertake under division (A), (B), (C), or (D) of this section and that will be funded in whole or in part by moneys authorized under section 1515.16 of the Revised Code and shall disapprove any such project that the director finds will adversely affect the environment without equal or greater benefit to the public. The director's disapproval or recommendations, upon the request of the district filed in accordance with rules adopted by the Ohio soil and water conservation commission, shall be reviewed by the commission, which may confirm the director's decision, modify it, or add recommendations to or approve a project the director has disapproved.

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

Sec. 1519.05. (A) As used in this section, "local political subdivision" and "nonprofit organization" have the same meanings as in section 164.20 of the Revised Code.

(B) There is hereby created in the state treasury the clean Ohio trail fund. Twelve and one-half per cent of the net proceeds of obligations issued and sold pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund.

Investment earnings of the fund shall be credited to the fund. ~~For two years after the effective date of this section, investment earnings credited to~~

~~the fund and~~ may be used to pay costs incurred by the director of natural resources in administering this section.

Money in the clean Ohio trail fund shall not be used for the appropriation of land, rights, rights-of-way, franchises, easements, or other property through the exercise of the right of eminent domain.

The director shall use moneys in the fund exclusively to provide matching grants to nonprofit organizations and to local political subdivisions for the purposes of purchasing land or interests in land for recreational trails and for the construction of such trails. A matching grant may provide up to seventy-five per cent of the cost of a recreational trail project, and the recipient of the matching grant shall provide not less than twenty-five per cent of that cost.

(C) The director shall establish policies for the purposes of this section. The policies shall establish all of the following:

(1) Procedures for providing matching grants to nonprofit organizations and local political subdivisions for the purposes of purchasing land or interests in land for recreational trails and for the construction of such trails, including, without limitation, procedures for both of the following:

(a) Developing a grant application form and soliciting, accepting, and approving grant applications;

(b) Participation by nonprofit organizations and local political subdivisions in the application process.

(2) A requirement that an application for a matching grant for a recreational trail project include a copy of a resolution supporting the project from each county in which the proposed project is to be conducted and whichever of the following is applicable:

(a) If the proposed project is to be conducted wholly within the geographical boundaries of one township, a copy of a resolution supporting the project from the township;

(b) If the proposed project is to be conducted wholly within the geographical boundaries of one municipal corporation, a copy of a resolution supporting the project from the municipal corporation;

(c) If the proposed project is to be conducted in more than one, but fewer than five townships or municipal corporations, a copy of a resolution supporting the project from at least one-half of the total number of townships and municipal corporations in which the proposed project is to be conducted;

(d) If the proposed project is to be conducted in five or more municipal corporations, a copy of a resolution supporting the project from at least three-fifths of the total number of townships and municipal corporations in

which the proposed project is to be conducted.

(3) Eligibility criteria that must be satisfied by an applicant in order to receive a matching grant and that emphasize the following:

- (a) Synchronization with the statewide trail plan;
- (b) Complete regional systems and links to the statewide trail system;
- (c) A combination of funds from various state agencies;
- (d) The provision of links in urban areas that support commuter access and show economic impact on local communities;
- (e) The linkage of population centers with public outdoor recreation areas and facilities;
- (f) The purchase of rail lines that are linked to the statewide trail plan;
- (g) The preservation of natural corridors.

(4) Items of value, such as in-kind contributions of land, easements or other interests in land, labor, or materials, that may be considered as contributing toward the percentage of the cost of a recreational trails project that must be provided by a matching grant recipient.

Sec. 1521.06. (A) No dam may be constructed for the purpose of storing, conserving, or retarding water, or for any other purpose, nor shall any dike or levee be constructed for the purpose of diverting or retaining flood water, unless the person or governmental agency desiring the construction has a construction permit for the dam, dike, or levee issued by the chief of the division of water.

A construction permit is not required under this section for:

(1) A dam ~~which~~ that is or will be less than ten feet in height and ~~which~~ that has or will have a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, ~~which~~ that has or will have a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, ~~which~~ that is or will be six feet or less in height, as determined by the chief;

(4) A dam, dike, or levee ~~which~~ that belongs to a class exempted by the chief;

(5) The repair, maintenance, improvement, alteration, or removal of a dam, dike, or levee ~~which~~ that is subject to section 1521.062 of the Revised Code, unless the construction constitutes an enlargement of the structure as determined by the chief;

(6) A dam or impoundment constructed under Chapter 1513. of the Revised Code.

(B) Before a construction permit may be issued, three copies of the plans and specifications, including a detailed cost estimate, for the proposed construction, prepared by a registered professional engineer, together with the filing fee specified by this section and the bond or other security required by section 1521.061 of the Revised Code, shall be filed with the chief. The detailed estimate of the cost shall include all costs associated with the construction of the dam, dike, or levee, including supervision and inspection of the construction by a registered professional engineer. ~~Except for a political subdivision, the~~ The filing fee shall be based on the detailed cost estimate for the proposed construction as filed with and approved by the chief, and shall be determined by the following schedule unless otherwise provided by rules adopted under this section:

(1) For the first one hundred thousand dollars of estimated cost, a fee of ~~two~~ four per cent;

(2) For the next four hundred thousand dollars of estimated cost, a fee of ~~one and one-half~~ three per cent;

(3) For the next five hundred thousand dollars of estimated cost, a fee of ~~one~~ two per cent;

(4) For all costs in excess of one million dollars, a fee of ~~one-quarter~~ one-half of one per cent.

In no case shall the filing fee be less than ~~two hundred~~ one thousand dollars or more than ~~fifty~~ one hundred thousand dollars. If the actual cost exceeds the estimated cost by more than fifteen per cent, an additional filing fee shall be required equal to the fee determined by the preceding schedule less the original filing fee. ~~The filing fee for a political subdivision shall be two hundred dollars.~~ All fees collected pursuant to this section, and all fines collected pursuant to section 1521.99 of the Revised Code, shall be deposited in the state treasury to the credit of the dam safety fund, which is hereby created. Expenditures from the fund shall be made by the chief for the purpose of administering this section and sections 1521.061 and 1521.062 of the Revised Code.

(C) The chief shall, within thirty days from the date of the receipt of the application, fee, and bond or other security, issue or deny a construction permit for the construction or may issue a construction permit conditioned upon the making of such changes in the plans and specifications for the construction as ~~he~~ the chief considers advisable if ~~he~~ the chief determines that the construction of the proposed dam, dike, or levee, in accordance with the plans and specifications filed, would endanger life, health, or property.

(D) The chief may deny a construction permit ~~if he finds~~ after finding that a dam, dike, or levee built in accordance with the plans and specifications would endanger life, health, or property, because of improper or inadequate design, or for such other reasons as the chief may determine.

In the event the chief denies a permit for the construction of the dam, dike, or levee, or issues a permit conditioned upon a making of changes in the plans or specifications for the construction, ~~he~~ the chief shall state ~~his~~ the reasons therefor and so notify, in writing, the person or governmental agency making the application for a permit. If the permit is denied, the chief shall return the bond or other security to the person or governmental agency making application for the permit.

The decision of the chief conditioning or denying a construction permit is subject to appeal as provided in Chapter 119. of the Revised Code. A dam, dike, or levee built substantially at variance from the plans and specifications upon which a construction permit was issued is in violation of this section. The chief may at any time inspect any dam, dike, or levee, or site upon which any dam, dike, or levee is to be constructed, in order to determine whether it complies with this section.

(E) A registered professional engineer shall inspect the construction for which the permit was issued during all phases of construction and shall furnish to the chief such regular reports of ~~his~~ the engineer's inspections as the chief may require. When the chief finds that construction has been fully completed in accordance with the terms of the permit and the plans and specifications approved by ~~him~~ the chief, ~~he~~ the chief shall approve the construction. When one year has elapsed after approval of the completed construction, and the chief finds that within this period no fact has become apparent to indicate that the construction was not performed in accordance with the terms of the permit and the plans and specifications approved by the chief, or that the construction as performed would endanger life, health, or property, ~~he~~ the chief shall release the bond or other security. No bond or other security shall be released until one year after final approval by the chief, unless the dam, dike, or levee has been modified so that it will not retain water and has been approved as nonhazardous after determination by the chief that the dam, dike, or levee as modified will not endanger life, health, or property.

(F) When inspections required by this section are not being performed, the chief shall notify the person or governmental agency to which the permit has been issued that inspections are not being performed by the registered professional engineer and that the chief will inspect the remainder of the construction. Thereafter, the chief shall inspect the construction and the cost

of inspection shall be charged against the owner. Failure of the registered professional engineer to submit required inspection reports shall be deemed notice that ~~his~~ the engineer's inspections are not being performed.

(G) The chief may order construction to cease on any dam, dike, or levee ~~which that~~ is being built in violation of ~~the provisions of this section,~~ and may prohibit the retention of water behind any dam, dike, or levee ~~which that~~ has been built in violation of ~~the provisions of this section.~~ The attorney general, upon written request of the chief, may bring an action for an injunction against any person who violates this section or to enforce an order or prohibition of the chief made pursuant to this section.

(H) The chief may adopt rules in accordance with Chapter 119. of the Revised Code, for the design and construction of dams, dikes, and levees for which a construction permit is required by this section or for which periodic inspection is required by section 1521.062 of the Revised Code, for establishing a filing fee schedule in lieu of the schedule established under division (B) of this section, for deposit and forfeiture of bonds and other securities required by section 1521.061 of the Revised Code, for the periodic inspection, operation, repair, improvement, alteration, or removal of all dams, dikes, and levees, as specified in section 1521.062 of the Revised Code, and for establishing classes of dams, dikes, or levees ~~which that~~ are exempt from the requirements of sections 1521.06 and 1521.062 of the Revised Code as being of a size, purpose, or situation ~~which that~~ does not present a substantial hazard to life, health, or property. The chief may, by rule, limit the period during which a construction permit issued under this section is valid. If a construction permit expires before construction is completed, the person or agency shall apply for a new permit, and shall not continue construction until the new permit is issued.

~~(I) As used in this section and section 1521.063 of the Revised Code, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.~~

Sec. 1521.063. (A) Except for ~~a political subdivision~~ the federal government, the owner of any dam subject to section 1521.062 of the Revised Code shall pay an annual fee, based upon the height of the dam, to the division of water on or before June 30, 1988, and on or before the thirtieth day of June of each succeeding year. The annual fee shall be as follows until otherwise provided by rules adopted under this section:

(1) For any dam classified as a class I dam under rules adopted by the chief of the division of water under section 1521.06 of the Revised Code, thirty dollars plus ~~three~~ ten dollars per foot of height of dam;

(2) For any dam classified as a class II dam under those rules, thirty dollars plus one dollar per foot of height of dam;

(3) For any dam classified as a class III dam under those rules, thirty dollars.

For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section 1521.062 of the Revised Code. All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

(B) The chief shall, in accordance with Chapter 119. of the Revised Code, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section and for the establishment of an annual fee schedule in lieu of the schedule established under division (A) of this section.

(C)(1) No person, political subdivision, or state governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it.

(2) The attorney general, upon written request of the chief, may commence an action against any such violator. Any action under division (C)(2) of this section is a civil action.

(D) As used in this section, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.

Sec. 1531.26. There is hereby created in the state treasury the nongame and endangered wildlife fund, which shall consist of moneys paid into it by the tax commissioner under section 5747.113 of the Revised Code, moneys deposited in the fund from the issuance of wildlife conservation license plates under section 4503.57 of the Revised Code, moneys deposited in the fund from the issuance of bald eagle license plates under section 4503.572 of the Revised Code, moneys credited to the fund under section 1533.151 of the Revised Code, and ~~of~~ contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of wildlife solely for the purchase, management, preservation, propagation,

protection, and stocking of wild animals that are not commonly taken for sport or commercial purposes, including the acquisition of title and easements to lands, biological investigations, law enforcement, production of educational materials, sociological surveys, habitat development, and personnel and equipment costs; and for carrying out section 1531.25 of the Revised Code. Moneys in the fund also may be used to promote and develop nonconsumptive wildlife recreational opportunities involving wild animals. Moneys in the fund from the issuance of bald eagle license plates under section 4503.572 of the Revised Code shall be expended by the division only to pay the costs of acquiring, developing, and restoring habitat for bald eagles within this state. Moneys in the fund from any other source also may be used to pay the costs of acquiring, developing, and restoring habitat for bald eagles within this state.

All investment earnings of the fund shall be credited to the fund. Subject to the approval of the director, the chief of the division of wildlife may enter into agreements that the chief considers appropriate to obtain additional moneys for the protection of nongame native wildlife under the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541-1543, as amended, and the "Fish and Wildlife Conservation Act of 1980," 94 Stat. 1322, 16 U.S.C.A. 2901-2911, as amended. Moneys appropriated from the fund are not intended to replace other moneys appropriated for these purposes.

Sec. 1533.08. Except as otherwise provided by division rule, any person desiring to collect wild animals that are protected by law or their nests or eggs for scientific study, school instruction, other educational uses, or rehabilitation shall make application to the chief of the division of wildlife for a wild animal collecting permit on a form furnished by the chief. Each applicant for a wild animal collecting permit, other than an applicant desiring to rehabilitate wild animals, shall pay an annual fee of ~~ten~~ twenty-five dollars for each permit. No fee shall be charged to an applicant desiring to rehabilitate wild animals. When it appears that the application is made in good faith, the chief shall issue to the applicant a permit to take, possess, and transport at any time and in any manner specimens of wild animals protected by law or their nests and eggs for scientific study, school instruction, other educational uses, or rehabilitation and under any additional rules recommended by the wildlife council. Upon the receipt of a permit, the holder may take, possess, and transport those wild animals in accordance with the permit.

Each holder of a permit engaged in collecting such wild animals shall carry the permit at all times and shall exhibit it upon demand to any wildlife

officer, constable, sheriff, deputy sheriff, or police officer, to the owner or person in lawful control of the land upon which the permit holder is collecting, or to any other person. Failure to so carry or exhibit the permit constitutes an offense under this section.

Each permit holder shall keep a daily record of all specimens collected under the permit and the disposition of the specimens and shall exhibit the daily record to any official of the division upon demand.

Each permit shall remain in effect for one year from the date of issuance unless it is revoked sooner by the chief.

All moneys received as fees for the issuance of a wild animal collecting permit shall be transmitted to the director of natural resources to be paid into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code.

Sec. 1533.10. Except as provided in this section or division (A) of section 1533.12 of the Revised Code, no person shall hunt any wild bird or wild quadruped without a hunting license. Each day that any person hunts within the state without procuring such a license constitutes a separate offense. ~~Every~~ Except as otherwise provided in this section, every applicant for a hunting license who is a resident of the state and sixteen years of age or more shall procure a resident hunting license, the fee for which shall be ~~fourteen~~ eighteen dollars, unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident hunting license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior hunting license, the fee for which shall be one-half of the regular hunting license fee. Every applicant who is a ~~resident of the state and~~ under the age of sixteen years shall procure a special youth hunting license, the fee for which shall be one-half of the regular hunting license fee. The owner of lands in the state and the owner's children of any age and grandchildren under eighteen years of age may hunt on the lands without a hunting license. The tenant ~~or manager~~ and children of the tenant ~~or manager~~, residing on lands in the state, may hunt on them without a hunting license. Every applicant for a hunting license who is a nonresident of the state and who is sixteen years of age or older shall procure a nonresident hunting license, the fee for which shall be ninety one hundred twenty-four dollars, unless the applicant is a resident of a state that is a party to an agreement under section 1533.91 of the Revised Code, in which case the fee shall be ~~fourteen~~ eighteen dollars.

The chief of the division of wildlife may issue a ~~tourist's~~ small game

hunting license expiring three days from the effective date of the license to a nonresident of the state, the fee for which shall be ~~twenty-four~~ thirty-nine dollars. No person shall take or possess deer, wild turkeys, fur-bearing animals, ducks, geese, brant, or any nongame animal while possessing only a ~~tourist's~~ small game hunting license. A ~~tourist's~~ small game hunting license does not authorize the taking or possessing of ducks, geese, or brant without having obtained, in addition to the ~~tourist's~~ small game hunting license, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code. A ~~tourist's~~ small game hunting license does not authorize the taking or possessing of deer, wild turkeys, or fur-bearing animals. A nonresident of the state who wishes to take or possess deer, wild turkeys, or fur-bearing animals in this state shall procure, respectively, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or a fur taker permit as provided in section 1533.111 of the Revised Code in addition to a nonresident hunting license or a special youth hunting license, as applicable, as provided in this section.

No person shall procure or attempt to procure a hunting license by fraud, deceit, misrepresentation, or any false statement.

This section does not authorize the taking and possessing of deer or wild turkeys without first having obtained, in addition to the hunting license required by this section, a special deer or wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a hunting license to any person who fails to

present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a hunter education and conservation course for first-time hunting license buyers and for volunteer instructors. The course shall consist of subjects including, but not limited to, hunter safety and health, use of hunting implements, hunting tradition and ethics, the hunter and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to hunting. Authorized personnel of the division or volunteer instructors approved by the chief shall conduct such courses with such frequency and at such locations throughout the state as to reasonably meet the needs of license applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Sec. 1533.101. Any person who has been issued a hunting or fishing license, a wetlands habitat stamp, a deer or wild turkey permit, or a fur taker permit for the current license, stamp, or permit year or for the license, stamp, or permit year next preceding the current such year pursuant to this chapter, and if the license, stamp, or permit has been lost, destroyed, or stolen, may be issued a reissued hunting or fishing license, wetlands habitat stamp, deer or wild turkey permit, or fur taker permit. The person shall file with the clerk of the court of common pleas an application in affidavit form or, if the chief of the division of wildlife authorizes it, apply for a reissued license, stamp, or permit to an authorized agent designated by the chief, and pay a fee for each license, stamp, or permit of ~~two~~ four dollars ~~plus one dollar to the clerk or agent, who shall issue a reissued license, stamp, or permit that shall allow the applicant to hunt, fish, or trap, as the case may be.~~ The clerk or agent shall administer the oath to the applicant, issue a reissued license, stamp, or permit that shall allow the applicant to hunt, fish, or trap, as applicable, and ~~shall~~ send a copy of the reissued license, stamp, or permit to the division of wildlife.

All moneys received as fees for the issuance of reissued licenses, stamps, or permits shall be transmitted to the director of natural resources to

be paid into the state treasury to the credit of the funds to which the fees for the original licenses, stamps, and permits were credited.

No person shall knowingly or willfully secure, attempt to secure, or use a reissued hunting or fishing license, wetlands habitat stamp, deer or wild turkey permit, or fur taker permit to which the person is not entitled. No person shall knowingly or willfully issue a reissued hunting or fishing license, wetlands habitat stamp, deer or wild turkey permit, or fur taker permit under this section to any person who is not entitled to receive and use such a reissued license, stamp, or permit.

Sec. 1533.11. (A) Except as provided in this section, no person shall hunt deer on lands of another without first obtaining an annual special deer permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual special wild turkey permit. Each applicant for a special deer or wild turkey permit shall pay an annual fee of ~~nineteen~~ twenty-three dollars for each permit, ~~together with one dollar as a fee to the clerk or other issuing agent, for the permit~~ unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a deer or wild turkey permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior deer or wild turkey permit, the fee for which shall be one-half of the regular special deer or wild turkey permit fee. Each applicant who is under the age of sixteen years shall procure a special youth deer or wild turkey permit, the fee for which shall be one-half of the regular special deer or wild turkey permit fee. Except as provided in division (A) of section 1533.12 of the Revised Code, a deer or wild turkey permit shall run concurrently with the hunting license. The money received, ~~other than the one dollar fee provided for above,~~ shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey. Every person, while hunting deer or wild turkey on lands of another, shall carry the person's special deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section. The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.

The owner and the children of the owner of lands in this state may hunt

deer or wild turkey thereon without a special deer or wild turkey permit. The tenant ~~or manager~~ and children of the tenant ~~or manager~~ may hunt deer or wild turkey on lands where they reside without a special deer or wild turkey permit.

(B) A special deer or wild turkey permit is not transferable. No person shall carry a special deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for special deer permits that are not issued. Money in the fund shall be used to make refunds of such application fees.

Sec. 1533.111. Except as provided in this section or division (A) of section 1533.12 of the Revised Code, no person shall hunt or trap fur-bearing animals on land of another without first obtaining an annual fur taker permit. Each applicant for a fur taker permit shall pay an annual fee of ~~ten fourteen~~ dollars, ~~together with one dollar as a fee to the clerk or other issuing agent~~, for the permit, except as otherwise provided in this section or unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a fur taker permit to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee. Each applicant who is a resident of the state and under the age of sixteen years shall procure a special youth fur taker permit, the fee for which shall be one-half of the regular fur taker permit fee ~~and which shall be paid together with one dollar as a fee to the clerk or other issuing agent~~. The fur taker permit shall run concurrently with the hunting license. The money received, ~~other than the one dollar fee provided for in this section~~, shall be paid into the state treasury to the credit of the fund established in section 1533.15 of the Revised Code.

No fur taker permit shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

No fur taker permit shall be issued unless the applicant presents to the agent authorized to issue a fur taker permit a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief of the division of wildlife, a certificate of completion issued upon completion of a trapper

education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

No person shall issue a fur taker permit to any person who fails to present the evidence required by this section. No person shall purchase or obtain a fur taker permit without presenting to the issuing agent the evidence required by this section. Issuance of a fur taker permit in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained permit and the clerk or agent who issued the permit. Any fur taker permit issued in violation of this section is void.

The chief, with approval of the wildlife council, shall adopt rules prescribing a trapper education course for first-time fur taker permit buyers and for volunteer instructors. The course shall consist of subjects that include, but are not limited to, trapping techniques, animal habits and identification, trapping tradition and ethics, the trapper and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to trapping. Authorized personnel of the division of wildlife or volunteer instructors approved by the chief shall conduct the courses with such frequency and at such locations throughout the state as to reasonably meet the needs of permit applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

Every person, while hunting or trapping fur-bearing animals on lands of another, shall carry the person's fur taker permit affixed to the person's hunting license with the person's signature written across the face of the permit. Failure to carry such a signed permit constitutes an offense under this section. The chief shall adopt any additional rules the chief considers necessary to carry out this section.

The owner and the children of the owner of lands in this state may hunt or trap fur-bearing animals thereon without a fur taker permit. The tenant ~~or manager~~ and children of the tenant ~~or manager~~ may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.112. Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp.

The annual fee for the wetlands habitat stamp shall be ~~ten~~ fourteen dollars for each stamp, ~~together with one dollar as a fee to the clerk or other issuing agent,~~ unless the rules adopted under division (B) of section 1533.12 provide for issuance of a wetlands habitat stamp to the applicant free of charge.

Moneys received from the stamp fee, ~~other than the one-dollar clerk's fee,~~ shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A) of section 1533.12 of the Revised Code.

Sec. 1533.12. (A) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on ~~self~~ the person when fishing, hunting, or trapping, a card or other evidence identifying the person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a special deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted under section 1531.10 of the Revised Code all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(2) Every resident of the state who ~~is sixty-six years of age or older~~ was born on or before December 31, 1937, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(3) Every resident of state or county institutions, charitable institutions, and military homes in this state shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by

and on forms provided by the chief.

(4) Any mobility impaired or blind person, as defined in section 955.011 of the Revised Code, who is a resident of this state and who is unable to engage in fishing without the assistance of another person shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief. The person who is assisting the mobility impaired or blind person may assist in taking or catching fish of the kind permitted to be taken or caught without procuring the license required under section 1533.32 of the Revised Code, provided that only one line is used by both persons.

(5) As used in division (B)(5) of this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state shall be issued an annual fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08 of the Revised Code designating not more than two days, which need not be consecutive, in each year as "free sport fishing days" on which any resident may exercise the privileges accorded the holder of a fishing license issued under section 1533.32 of the Revised Code without procuring such a license, provided that the person is not otherwise violating any of the fishing laws of this state.

Sec. 1533.13. Hunting and fishing licenses, wetlands habitat stamps, deer and wild turkey permits, ~~and fur taker permits shall, and any other licenses, permits, or stamps that are required under this chapter or Chapter 1531. of the Revised Code and any reissued license, permit, or stamp may~~ be issued by the clerk of the court of common pleas, village and township clerks, and other authorized agents designated by the chief of the division of wildlife. When required by the chief, a clerk or agent shall give bond in the manner provided by the chief. All bonds, reports, except records prescribed by the auditor of state, and moneys received by those persons shall be handled under rules adopted by the director of natural resources.

The premium of any bond prescribed by the chief under this section may be paid by the chief. Any person who is designated and authorized by the chief to issue licenses, stamps, and permits as provided in this section,

except the clerk of the court of common pleas and the village and township clerks, shall pay to the chief a premium in an amount that represents the person's portion of the premium paid by the chief under this section, which amount shall be established by the chief and approved by the wildlife council created under section 1531.03 of the Revised Code. The chief shall pay all moneys that the chief receives as premiums under this section into the state treasury to the credit of the wildlife fund created under section 1531.17 of the Revised Code.

Every authorized agent, for the purpose of issuing hunting and fishing licenses, wetlands habitat stamps, deer and wild turkey permits, and fur taker permits, may administer oaths to and take affidavits from applicants for the licenses, stamps, or permits when required. An authorized agent may appoint deputies to perform any acts that the agent is authorized to perform, consistent with division rules.

Every applicant for a hunting or fishing license, wetlands habitat stamp, deer or wild turkey permit, or fur taker permit, unless otherwise provided by division rule, shall ~~make and subscribe an affidavit setting forth~~ provide the applicant's name, age date of birth, weight, height, ~~occupation~~, place of residence, ~~personal description~~, and ~~citizenship~~ any other information that the chief may require. The clerk or other agent authorized to issue licenses, stamps, and permits shall charge each applicant a fee of one dollar for taking the affidavit information provided by the applicant and issuing the license, stamp, or permit. The application, license, stamp, permit, and other blanks required by this section shall be prepared and furnished by the chief, in such form as the chief provides, to the clerk or other agent authorized to issue them. The licenses and permits shall be issued to applicants by the clerk or other agent. The record of licenses and permits kept by the clerk and other authorized agents shall be uniform throughout the state and in such form or manner as the auditor of state prescribes and shall be open at all reasonable hours to the inspection of any person. Unless otherwise provided by division rule, each hunting license, deer or wild turkey permit, and fur taker permit issued shall remain in force until midnight of the thirty-first day of August next ensuing. Application for any such license or permit may be made and a license or permit issued prior to the date upon which it becomes effective.

The chief may require an applicant who wishes to purchase a license, stamp, or permit by mail or telephone or via the internet to pay a nominal fee for postage and handling and credit card transactions.

The court before whom a violator of any laws or division rules for the protection of wild animals is tried, as a part of the punishment, shall revoke the license, stamp, or permit of any person convicted. The license, stamp, or

permit fee paid by that person shall not be returned to the person. The person shall not procure or use any other license, stamp, or permit or engage in hunting wild animals or trapping fur-bearing animals during the period of revocation as ordered by the court.

No person under sixteen years of age shall engage in hunting unless accompanied by the person's parent or another adult person.

Sec. 1533.151. The chief of the division of wildlife, with the approval of the director of natural resources, ~~is hereby authorized to~~ may print and issue stamps portraying wild animals of the state. This stamp shall be identified as a wildlife conservation stamp ~~and the~~. The fee for each stamp shall be five dollars not more than the fee for a wetlands habitat stamp issued under section 1533.112 of the Revised Code.

The purchase of wildlife conservation stamps shall provide no privileges to the purchaser, but merely recognizes ~~such~~ the person as voluntarily contributing to the management, protection, and the perpetuation of the wildlife resources of the state. All moneys received from the sale of wildlife conservation stamps shall be paid into the state treasury to the credit of the nongame and endangered wildlife fund to be used exclusively by the division of wildlife for the purposes outlined in section ~~1533.15~~ 1531.26 of the Revised Code ~~and for the management of all forms of wildlife for its ecological and non-consumptive recreational value.~~

Sec. 1533.19. Except as otherwise provided by division rule, recognized field trial clubs may shoot domestically raised quails, chukar partridges, ducks, pheasants, or other game birds and common pigeons at any time during the daylight hours from the first day of September to the thirtieth day of April of the following year, both dates inclusive. Such domestically raised quails, chukar partridges, ducks, pheasants, and other game birds shall be banded prior to release and approved by the division of wildlife for field trial use, provided that permission for the holding of such a trial shall be obtained from the division. Permission shall be requested in writing at least thirty days in advance of the trial. The request shall contain the name of the recognized field trial club and the names of its officers, the date and location of the trial, and the name of the licensed breeders from whom the quails, chukar partridges, ducks, pheasants, or other game birds will be obtained. The division may grant a written permit when it is satisfied that the trial is a bona fide one conducted by a bona fide club under this section. When an application is approved, a permit shall be issued after the payment of a fee of ~~twenty-five~~ fifty dollars for each day upon which the trials are conducted. Participants in such trials need not possess a hunter's license while participating in the trials. The division shall supervise all such trials

and shall enforce all laws and division rules governing them. If unbanded quails, chukar partridges, ducks, pheasants, or other game birds are accidentally shot during such trials, they immediately shall be replaced by the club by the releasing of an equal number of live quails, chukar partridges, ducks, pheasants, or other game birds under the supervision of the division.

Sec. 1533.23. No person shall deal in or buy green or dried furs, skins, or parts thereof, taken from fur-bearing animals of the state, except domesticated rabbits, without a fur dealer's permit. Every applicant for a fur dealer's permit shall make and subscribe a statement setting forth ~~his~~ the applicant's name, place of residence, and whom ~~he~~ the applicant represents. Every applicant for a dealer's permit who is a nonresident of the state, or who is a resident of the state and is an agent or representative of a nonresident person, firm, or corporation, shall pay an annual fee of two hundred dollars to the chief of the division of wildlife issuing such permit, and every applicant for a dealer's permit who is a resident of the state shall pay an annual fee of ~~fifty~~ seventy-five dollars to the chief ~~of the division of wildlife~~ issuing such permit, ~~and every~~. Every fur dealer shall operate under such additional ~~regulations~~ rules as are provided by the chief ~~of the division of wildlife~~. The chief shall pay ~~such~~ the fees into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code for the use of the division of wildlife in the purchase, preservation, protection, and stocking of fur-bearing animals and for the necessary clerical help and forms required by this section and section 1533.24 of the Revised Code.

All permits shall be procured from the chief and the application, license, and other blanks required by this section and section 1533.24 of the Revised Code shall be in such form as the chief prescribes. Each such permit shall expire on the thirtieth day of April next after its issuance.

Sec. 1533.301. Any person may apply for a permit to transport fish that are for sale, sold, or purchased. The chief of the division of wildlife shall issue an annual permit granting the applicant the privilege to transport such fish, upon filing of an application on a form prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five dollars. No person shall transport any fish or part thereof that is for sale, sold, or purchased, whether acquired in or outside this state, unless the consignor has a permit ~~issued to him~~ for the calendar year in which the fish is transported, except that no such permit is required for any of the following:

(A) Fish transported from a point outside this state to another point outside this state if the fish are not unloaded in this state. A fish is not to be considered unloaded for purposes of this section if it remains under the

control of a common carrier.

(B) Fish being transported by a person holding a valid license under section 1533.34 of the Revised Code from the place of taking to ~~his~~ the person's usual place of processing or temporary storage as designated by ~~him~~ the person in the application for the license under that section;

(C) Fish being transported from a premises designated in a valid permit issued under section 1533.631 of the Revised Code to a premises where fish are to be sold at retail, sold for immediate consumption, or consumed if inspection of the designated premises as required by that section has not been denied during the preceding thirty days;

(D) Any quantity of fish the total weight of which does not exceed five hundred pounds in one vehicle;

(E) Minnows for which a permit is required under section 1533.40 of the Revised Code.

If a fish for which a permit is required under this section is transported in this state from a consignor who does not have a valid permit at the time of transportation, or if such a fish is transported in this state from a consignor who has a valid permit at the time of transportation, but the fish is part of the contents of a box, package, or receptacle that was or could be the basis for conviction of a violation of this chapter or a division rule, the fish may be seized by any law enforcement officer authorized by section 1531.13 of the Revised Code to enforce laws and division rules, and the fish shall escheat to the state unless a court of this state makes a specific finding that the consignor at the time of seizure had a valid permit under this section ~~1533.301 of the Revised Code~~ and that the fish are lawful under the requirements of this chapter or a division rule relating thereto.

A fish for which a permit is required under this section may be transported only if each box, package, or other receptacle bears a label showing the total weight in pounds, the species of the fish, the name of the consignor and consignee, the initial point of billing, the destination, and a statement that each species of fish by weight in the box, package, or other receptacle that are undersized under ~~the provisions of~~ section 1533.63 of the Revised Code or division rule is ten per cent or less or is in excess of ten per cent, whichever the fact may be. If fish are not boxed or packaged, each compartment of a tank or other receptacle shall be considered a separate receptacle, but in lieu of a label on the compartment or tank a written statement containing the same information required to be contained on a label, and clearly identifying the tank or receptacle concerned, may be carried in the vehicle. Species may be designated in any manner, but the label also shall bear either the common name indicated in section 1533.63 of

the Revised Code or the scientific name contained in section 1531.01 of the Revised Code. The consignor shall ascertain that labels are attached or statements carried as required herein and that the facts stated thereon are true.

The permit required by this section may be suspended by the chief for a period not to exceed five days upon conviction of the permittee of a violation of this chapter or Chapter 1531. of the Revised Code or a division rule if the permittee has been convicted of another such violation during the preceding twelve-month period. If the permittee has had two or more such convictions during the twelve-month period preceding such a conviction, ~~his~~ the permittee's permit may be suspended as provided herein for a period not to exceed twenty days. A permit is invalid during the period of suspension, but in no case is a permit invalid until fifteen days after mailing by certified mail a notice of the rule of suspension by the chief.

The chief may not suspend more than one permit of the same permittee, or suspend a permit of the same permittee more than once, for convictions resulting from violations that occur in a load in one vehicle.

A driver or other person in charge of a vehicle transporting fish that are for sale, sold, or purchased, upon demand by any law enforcement officer authorized by section 1531.13 of the Revised Code to enforce laws and division rules, shall stop and open the vehicle and allow inspection of the load, and any box, package, or receptacle, and the contents thereof, for the purpose of determining whether this chapter or a division rule is being violated.

The word "fish" in the English language, at least eight inches high and maintained in a clear, conspicuous, and legible condition at all times, shall appear on both sides of the vehicle body of all vehicles transporting fresh water fish in this state when the fish are for sale or sold, except those fish exempt from a transportation permit in divisions (A), (B), and (E) of this section.

The chief may refuse to issue a permit to any person whose purpose in applying for the permit is to allow it to be used by another person to whom a permit has been refused or revoked. The chief also may revoke a person's permit when it is used for that purpose.

No civil action may be brought in any court in the state for the value or agreed price of fish that have escheated to the state under this section.

No person shall fail to comply with any provision of this section or a division rule adopted pursuant thereto.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of two violations of this section that

occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension, no person shall use or engage in hauling or transporting fish with equipment owned, used, or controlled at the time of conviction by the permittee whose permit has been suspended.

Sec. 1533.32. Except as provided in this section or division (A) or (C) of section 1533.12 of the Revised Code, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the division of wildlife shall comply with the license requirements set forth in this section.

The fee for an annual license shall be ~~twenty-three~~ thirty-nine dollars for a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for an annual license shall be ~~fourteen~~ eighteen dollars for a resident of a state that is a party to such an agreement. The fee for an annual license for residents of this state shall be ~~fourteen~~ eighteen dollars unless the rules adopted under division (B) of section 1533.12 of the Revised Code provide for issuance of a resident fishing license to the applicant free of charge. Except as provided in rules adopted under division (B)(2) of that section, each applicant who is a resident of this state and who at the time of application is sixty-six years of age or older shall procure a special senior fishing license, the fee for which shall be one-half of the annual resident fishing license fee.

Any person under the age of sixteen years may take or catch frogs and turtles and take or catch fish by angling without a license. ~~Any resident of this state sixty-six years of age or older may take or catch frogs and turtles without a license.~~

The chief of the division of wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a

state that is not a party to an agreement under section 1533.91 of the Revised Code. The fee for a tourist's license shall be ~~fourteen~~ eighteen dollars.

The chief shall adopt rules under section 1531.10 of the Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be ~~forty~~ fifty-five per cent of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

~~A fee of one dollar for each license issued under this section shall be paid to the issuing clerk or agent in accordance with section 1533.13 of the Revised Code.~~

Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

No person shall alter a fishing license or possess a fishing license that has been altered.

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an identification card,

which shall be carried on that person when fishing.

Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section.

Sec. 1533.35. (A) Commercial fishing devices shall be annually licensed as follows:

(1) Trap and fyke nets, for the first twenty nets or any portion thereof, eight hundred dollars; and for each additional group of ten such nets or any portion thereof, four hundred dollars;

(2) For each seine of one hundred fifty rods or less in length other than an inland fishing district seine, four hundred dollars;

(3) For each seine over one hundred fifty rods in length other than an inland fishing district seine, six hundred dollars;

(4) For each inland fishing district seine, one hundred dollars;

(5) For each carp apron, one hundred dollars;

(6) For one trotline with seventy hooks or less attached thereto, twenty dollars;

(7) For each trotline, or trotlines, with a total of more than seventy hooks attached thereto, one hundred dollars;

(8) For each dip net, one hundred dollars.

The license fee for other commercial fishing gear not mentioned in this section, as approved by the chief of the division of wildlife, shall be set by the chief with approval of the wildlife council.

Commercial fishing gear owned or used by a nonresident may be licensed in this state only if a reciprocal agreement is in effect as provided for in section 1533.352 of the Revised Code.

All commercial license fees shall be paid upon application or shall be paid one-fourth upon application with the balance due and owing within ninety days of the date of application, except that those license fees of one hundred dollars or less shall be paid in full at the time of application.

(B) Royalty fees are hereby established ~~as set forth~~ on the following species of fish when taken commercially: catfish, white bass, and yellow perch.

The amount of the royalty fees shall be as follows: on the species taken for which an allowable catch or quota has been established by division rule, ~~two~~ five cents per pound. On the species taken for which an allowable catch or quota has not been established by division rule, ~~one cent~~ two cents per pound ~~on that portion taken that exceeds one-half of the previous year's taking of the species.~~

~~For the purpose of this section, the previous year's taking shall be the amount reported for that previous year by the license holder to the division pursuant to reporting procedures set forth in this chapter and Chapter 1531 of the Revised Code.~~

All royalty fees established or provided for in this section shall be paid by the license holder to the division. No person may be issued a commercial fishing license until all royalty fees due from that person for the preceding fishing season have been paid in full. The chief may request the attorney general to recover any royalty fee or amount thereof that is not paid by the opening date of the next fishing season, and the attorney general shall commence appropriate legal proceedings to recover the unpaid fee or amount.

All commercial fishing license moneys and all other fees collected from commercial ~~fishermen~~ fishers shall be deposited in the state treasury in accordance with section 1533.33 of the Revised Code.

No person shall fail to comply with any provision of this section or a division rule adopted pursuant to it.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of one or more violations of this section shall be suspended upon the conviction by operation of law for a period of eighteen fishing season months immediately following the conviction.

During any period of suspension, no person shall use or engage in fishing with commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.

Sec. 1533.40. Each person, firm, partnership, association, or corporation ~~which~~ that buys, sells, or deals in minnows, crayfish, or hellgrammites or collects the listed species for sale shall obtain, annually, from the chief of the division of wildlife a permit and shall operate under such rules as the chief ~~of the division of wildlife prescribes~~ adopts. ~~Such~~ A permit shall be issued upon application and the payment of a fee of ~~twenty-five~~ forty dollars. This permit expires at midnight; on the thirty-first day of December ~~31~~. Nonresidents engaging in the collecting, seining, or picking of minnows, crayfish, or hellgrammites for bait shall have a nonresident fishing license as prescribed in section 1533.32 of the Revised Code.

Sec. 1533.54. No person shall draw, set, place, locate, maintain, or possess a pound net, crib net, trammel net, fyke net, set net, seine, bar net, or fish trap, or any part thereof, or throw or hand line, with more than three hooks attached thereto, or any other device for catching fish, except a line with not more than three hooks attached thereto or lure with not more than three sets of three hooks each, in the inland fishing district of this state,

except for taking carp, mullet, sheepshead, and grass pike as provided in section 1533.62 of the Revised Code, and except as provided in section 1533.60 of the Revised Code, or as otherwise provided for by division rule. No person shall catch or kill a fish in that fishing district with what are known as bob lines, trotlines, or float lines, or by grabbing with the hands, or by spearing or shooting, or with any other device other than by angling. In the waters of the inland fishing district, except those lakes, harbors, and reservoirs controlled by the state, a trotline may be used with not more than fifty hooks, and no two hooks less than three feet apart, by the owner or person having the owner's consent in that part of the stream bordering on or running through that owner's lands.

Notwithstanding this section, any resident who is licensed to fish with nets in the Ohio river may possess fish nets for the sole purpose of storage, repair, drying, and tarring in the area between United States route fifty and the Ohio river from the Indiana state line to Cincinnati, Ohio, and in the area between United States route fifty-two and the Ohio river from Cincinnati, Ohio, to Chesapeake, Ohio, and in the area between state route seven and the Ohio river from Chesapeake, Ohio, to East Liverpool, Ohio.

Any person possessing a net in this reserve district shall have an Ohio permit for each net in ~~his~~ the person's possession. The permit shall be issued annually by the chief of the division of wildlife upon application of the owner of the net and submission of evidence by ~~him~~ the owner of ~~his~~ possession of a valid fishing license permitting ~~him~~ the owner to fish with nets in the Ohio river, and the payment of ~~ten~~ fifty dollars for each net for which an application is made and a permit is issued. The permit shall expire at twelve midnight on the fifteenth day of March of each year.

Sec. 1533.631. Any person may apply for a permit to handle commercial fish, or other fish that may be bought or sold under the Revised Code or division rule, at wholesale. The chief of the division of wildlife shall issue an annual permit granting the applicant the privilege to handle such fish at wholesale at one or more designated premises upon filing of an application on a form prescribed by the chief and payment of a fee of ~~fifty~~ sixty-five dollars. No person or ~~his~~ a person's agent shall handle at wholesale any fresh water fish or part thereof unless a permit has been issued for the calendar year in which the fish is handled at wholesale for the premises at which the fish is handled.

A fish is handled at wholesale for purposes of this section when it is on a premises within the state and is being held, stored, handled, or processed for the purpose of sale to a person who ordinarily resells the fish.

The permit required by this section shall be issued subject to the right of

entry and inspection of the designated premises of the permittee by any law enforcement officer authorized by section 1531.13 of the Revised Code to enforce the laws and rules of the division of wildlife. Such an officer may enter and inspect the designated premises and any box, package, or receptacle, and the contents thereof, for the purpose of determining whether any provision of this chapter or Chapter 1531. of the Revised Code or division rule is being violated.

No person holding a permit under this section shall remove a label required by section 1533.301 of the Revised Code unless the box, package, or receptacle bearing the label has been opened or unless the label is replaced with another label that meets the requirements of that section.

No person shall fail to comply with any provision of this section or division rule adopted pursuant to it.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the permit of any person who is convicted of three or more violations of this section that occurred within a twelve-month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension, no person shall use or engage in handling commercial fish at wholesale with equipment or facilities owned, used, or controlled at the time of conviction by the permittee whose permit has been suspended.

Sec. 1533.632. (A) As used in this section:

(1) "Aquaculture" means a form of agriculture that involves the propagation and rearing of aquatic species in controlled environments under private control, including, but not limited to, for the purpose of sale for consumption as food.

(2) "Aquaculture species" means any aquatic species that may be raised through aquaculture that is either a class A aquaculture species or a class B aquaculture species.

(3) "Class A aquaculture species" includes all of the following:

- (a) Trout and salmon (*Onchorhynchus* sp., *Salmo* sp., *Salvelinus* sp.);
- (b) Walleye (*Stizostedion vitreum*);
- (c) Sauger (*Stizostedion canadense*);
- (d) Bluegill (*Lepomis macrochirus*);

- (e) Redear sunfish (*Lepomis microlophus*);
- (f) Green sunfish (*Lepomis cyanellus*);
- (g) White crappie (*Pomoxis annularis*);
- (h) Black crappie (*Pomoxis nigromaculatus*);
- (i) Blue catfish (*Ictalurus furcatus*);

(j) Any species added by rule under division (B) of this section or listed as commercial fish under section 1531.01 of the Revised Code except white perch (*Morone americana*).

(4) "Class B aquaculture species" includes any species, except for class A aquaculture species, designated as such by the chief of the division of wildlife.

(5) "Aquaculture production facility" means a facility used for aquaculture.

(B) The chief, in accordance with Chapter 119. of the Revised Code, shall adopt rules for the regulation of aquaculture and may issue permits to persons wishing to engage in aquaculture for the production of aquaculture species. Rules adopted under this section shall ensure the protection and preservation of the wildlife and natural resources of this state. The legal length and weight limitations established under section 1533.63 of the Revised Code do not apply to class A or class B aquaculture species.

A permit may be issued upon application to any person who satisfies the chief that the person has suitable equipment, of which ~~he~~ the person is the owner or lessee, to engage in aquaculture for a given aquaculture species or group of aquaculture species. Each permit shall be in such form as the chief prescribes. The permits shall be classified as either class A or class B. A class A permit shall be required for all class A aquaculture species that are specified in this section or designated by rule as a class A aquaculture species. Class B permits shall be issued on a case-by-case basis. In determining whether to issue a class B permit, the chief shall take into account the species for which the class B permit is requested, the location of the aquaculture production facility, and any other information determined by the chief to be necessary to protect the wildlife and natural resources of this state. The annual fee for a class A permit shall be fifty dollars unless otherwise provided by rule by the chief. The annual fee for a class B permit shall be set by the chief at a level between one hundred and five hundred dollars. In determining the fee to be charged for a class B permit, the chief shall take into account the additional costs to the division for the inspection of aquaculture facilities used to raise a given class B aquaculture species.

The chief may revoke a permit upon a determination that the person to whom the permit was issued has violated any rule adopted under this

section. The permit shall be reissued upon a showing by the person that ~~he~~ the person is in compliance with the rules adopted under this section. A holder of an aquaculture permit may receive a permit issued under section 1533.301, ~~1533.39~~, or 1533.40 of the Revised Code without payment of the fee for that permit if the conditions for the issuance of the permit have been met.

(C) No person shall knowingly sell any aquatic species under an aquaculture permit issued under this section that was not raised in an aquaculture production facility. In addition to any other penalties prescribed for violation of this division, the chief may revoke the permit of any person convicted of a violation of this division for any period of time ~~he~~ the chief considers necessary.

(D) No person who does not hold a current valid aquaculture permit shall knowingly sell an aquaculture species while claiming to possess an aquaculture permit.

Sec. 1533.71. Unless otherwise provided by division rule, any person desiring to engage in the business of raising and selling game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in a wholly enclosed preserve of which the person is the owner or lessee, or to have game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in captivity, shall apply in writing to the division of wildlife for a license to do so.

The division, when it appears that the application is made in good faith and upon the payment of the fee for each license, ~~shall~~ may issue to the applicant any of the following licenses that may be applied for:

(A) "Commercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in the wholly enclosed preserve the location of which is stated in the license and the application therefor, and to sell the propagated game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and ship them from the state alive at any time, and permitting the licensee and the licensee's employees to kill the propagated game birds, game quadrupeds, or fur-bearing animals and sell the carcasses for food subject to sections 1533.70 to 1533.80 of the Revised Code. The fee for such a license is ~~twenty-five~~ forty dollars per annum.

(B) "Noncommercial propagating license" permitting the licensee to propagate game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals and to hold the animals in captivity. Game birds, game quadrupeds, reptiles, amphibians, and fur-bearing animals propagated or held in captivity by authority of a noncommercial propagating license are

for the licensee's own use and shall not be sold. The fee for such a license is ~~ten~~ twenty-five dollars per annum.

(C) A free "raise to release license" permitting duly organized clubs, associations, or individuals approved by the division to engage in the raising of game birds, game quadrupeds, or fur-bearing animals for release only and not for sale or personal use.

Except as provided by law, no person shall possess game birds, game quadrupeds, or fur-bearing animals in closed season, provided that municipal or governmental zoological parks are not required to obtain the licenses provided for in this section.

All licenses issued under this section shall expire on the fifteenth day of March of each year.

The chief of the division of wildlife shall pay all moneys received as fees for the issuance of licenses under this section into the state treasury to the credit of the fund created by section 1533.15 of the Revised Code for the use of the division in the purchase, preservation, and protection of wild animals and for the necessary clerical help and forms required by sections 1533.70 to 1533.80 of the Revised Code.

This section does not authorize the taking or the release for taking of the following:

(1) Game birds, without first obtaining a commercial bird shooting preserve license issued under section 1533.72 of the Revised Code;

(2) Game or nonnative wildlife, without first obtaining a wild animal hunting preserve license issued under section 1533.721 of the Revised Code.

Sec. 1533.82. (A) On receipt of a notice pursuant to section 3123.43 of the Revised Code, the chief of the division of wildlife shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license, permit, or certificate issued pursuant to section 1533.23, 1533.34, 1533.342, ~~1533.39~~, 1533.40, 1533.51, 1533.631, 1533.71, 1533.72, 1533.81, 1533.88, or 1533.881 of the Revised Code.

(B) On receipt of a notice pursuant to section 3123.62 of the Revised Code, the chief shall comply with that section and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license, permit, or stamp issued pursuant to section 1533.10, 1533.11, 1533.111, 1533.112, or 1533.32 of the Revised Code.

Sec. 1541.10. Any person selected by the chief of the division of parks and recreation for custodial or patrol service on the lands and waters operated or administered by the division of parks and recreation shall be employed in conformity with the law applicable to the classified civil

service of the state. Subject to section 1541.11 of the Revised Code, the chief may designate that person as a park officer. A park officer, on any lands and waters owned, controlled, maintained, or administered by the department of natural resources and on highways, as defined in section 4511.01 of the Revised Code, adjacent to lands and waters owned, controlled, maintained, or administered by the division, has the authority specified under section 2935.03 of the Revised Code for peace officers of the department of natural resources to keep the peace, to enforce all laws and rules governing those lands and waters, and to make arrests for violation of those laws and rules, provided that the authority shall be exercised on lands or waters administered by another division of the department only pursuant to an agreement with the chief of that division or to a request for assistance by an enforcement officer of that division in an emergency. A park officer, in or along any watercourse within, abutting, or upstream from the boundary of any area administered by the department, has the authority to enforce section 3767.32 of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters and to make arrests for violation of those laws. The jurisdiction of park officers shall be concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs. A state park, for purposes of this section, is any area that is administered as a state park by the division of parks and recreation.

The ~~governor~~ secretary of state, upon the recommendation of the chief, shall issue to each park officer a commission indicating authority to make arrests as provided in this section.

The chief shall furnish a suitable badge to each commissioned park officer as evidence of that park officer's authority.

If any person employed under this section is designated by the chief to act as an agent of the state in the collection of moneys resulting from the sale of licenses, fees of any nature, or other moneys belonging to the state, the chief shall require a surety bond from that person in an amount not less than one thousand dollars.

A park officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency.

Park officers serving outside the division of parks and recreation under this section or serving under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation,

and other rights or benefits to which they may be entitled as incidents of their regular employment.

Park officers serving outside the division of parks and recreation under this section or under a mutual aid compact retain personal immunity from civil liability as specified in section 9.86 of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses park officers under this section or under the terms of a mutual aid compact authorized under section 1501.02 of the Revised Code is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any park officer acting under this section or under a mutual aid compact.

Sec. 1548.06. Application for a certificate of title for a watercraft or outboard motor shall be made upon a form prescribed by the chief of the division of watercraft and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the chief in any county with the clerk of the court of common pleas of that county. The application shall be accompanied by the fee prescribed in section 1548.10 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

If a certificate of title previously has been issued for the watercraft or outboard motor, the application for a certificate of title also shall be accompanied by the certificate of title duly assigned unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the watercraft or outboard motor in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership if the watercraft or outboard motor was purchased by the applicant on or before October 9, 1963, or if the watercraft is less than fourteen feet long with a permanently affixed mechanical means of propulsion and was purchased by the applicant on or before January 1, 2000; or by a certificate of title, bill of sale, or other evidence of ownership required by the law of another state from which the watercraft or outboard motor was brought into this state. Evidence of ownership of a watercraft or outboard motor for

which an Ohio certificate of title previously has not been issued and which watercraft or outboard motor does not have permanently affixed to it a manufacturer's serial number shall be accompanied by the certificate of assignment of a hull identification number assigned by the chief as provided in section 1548.07 of the Revised Code.

The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically, by a vendor on behalf of a purchaser of a watercraft or outboard motor, the clerk shall retain the completed electronic record to which the vendor converted the certificate of title application and other required documents. ~~The vendor shall forward the actual application and all other documents relating to the sale of the watercraft or outboard motor to any clerk within thirty days after the certificate of title is issued.~~ The chief, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a watercraft or outboard motor when a vendor files the application for a certificate of title electronically on behalf of a purchaser.

The clerk shall use reasonable diligence in ascertaining whether the facts in the application are true by checking the application and documents accompanying it or the electronic record to which a vendor converted the application and accompanying documents with the records of watercraft and outboard motors in the clerk's office. If the clerk is satisfied that the applicant is the owner of the watercraft or outboard motor and that the application is in the proper form, the clerk shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. However, if the evidence indicates and an investigation shows that one or more Ohio titles already exist for the watercraft or outboard motor, the chief may cause the redundant title or titles to be canceled.

In the case of the sale of a watercraft or outboard motor by a vendor to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the vendor upon application signed by the purchaser. In all other cases, the certificate shall be obtained by the purchaser. In all cases of transfer of watercraft or outboard motors, the application for certificate of title shall be filed within thirty days after the later of the date of purchase or assignment of ownership of the watercraft or outboard motor. If the application for certificate of title is not filed within thirty days after the later of the date of purchase or assignment of ownership

of the watercraft or outboard motor, the clerk shall charge a late penalty fee of five dollars in addition to the fee prescribed by section 1548.10 of the Revised Code. The clerk shall retain the entire amount of each late penalty fee.

The clerk shall refuse to accept an application for certificate of title unless the applicant either tenders with the application payment of all taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code based on the applicant's county of residence less, in the case of a sale by a vendor, any discount to which the vendor is entitled under section 5739.12 of the Revised Code, or submits any of the following:

(A) A receipt issued by the tax commissioner or a clerk of courts showing payment of the tax;

(B) A copy of the unit certificate of exemption completed by the purchaser at the time of sale as provided in section 5739.03 of the Revised Code;

(C) An exemption certificate, in a form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be in accordance with rules issued by the tax commissioner, and the clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for the certificate of title.

For receiving and disbursing the taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent of the taxes collected, which shall be paid into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The chief of the division of watercraft, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

In the case of casual sales of watercraft or outboard motors that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the

purchase price on an affidavit executed and filed with the clerk by the vendor on a form to be prescribed by the chief, which shall be prima-facie evidence of the price for the determination of the tax. In addition to the information required by section 1548.08 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER). You are required by law to state the true selling price. A false statement is a violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner may require. For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 1551.11. (A) To achieve the purposes of ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code, the director of development may:

(1) Identify, plan, organize, initiate, and sponsor studies, research, and experimental, pilot, and demonstration facilities and projects ~~which~~ that would lead to the development and more efficient utilization of present, new, or alternative energy sources in ~~the~~ this state, to the conservation of energy, to the attraction of federal and other development funding in emerging and established national or state priority areas, or to the enhancement of the economic development of the state;

(2) Promote, assist, and provide financial assistance for the development of nonprofit corporations organized and established under Chapter 1702. of the Revised Code to further the purposes of this section;

(3) Seek out, apply for, receive, and accept grants, gifts, contributions, loans, and other assistance in any form from public and private sources, including assistance from any governmental agency;

(4) Make grants under division (F) of section 1551.12 of the Revised Code from funds that are appropriated by the general assembly and from gifts or grants obtained under division (A)(3) of this section for the purposes of developing, constructing, or operating experimental, pilot, and demonstration facilities or programs which develop, test, or demonstrate more efficient and environmentally acceptable methods of extracting energy resources; new concepts, programs, or technology for the conservation of energy; new concepts, programs, or technology for the efficient and environmentally acceptable utilization of present, new, or alternative energy sources; or concepts, programs, or technology which develop resources of the state. Grants may be made, without limitation, for projects and programs such as experimental demonstrations of the use of Ohio coal in processes which would facilitate its widespread use as a source of energy; experimental demonstrations of new or improved coal, natural gas, and natural petroleum extraction techniques and of reclamation techniques at the extraction sites; experimental demonstrations or development of solar heating and cooling and potentially energy-efficient construction in public buildings, schools, offices, commercial establishments, and residential homes; development of programs or experimental demonstrations of the utilization of waste products in energy production and mineral and energy conservation; and development of programs or experimental demonstrations of technologies which would permit utility pricing policies which may reduce the consumer costs of energy.

(5) Enter into agreements with persons and governmental agencies, in any combination, for the purposes of this section.

(B) Any materials or data submitted to, made available by or to, or received by the director under division (A) of this section, division (F) of section 1551.12, or division (B) of section 1551.15 of the Revised Code, and any information taken from those materials or data for any purpose, to the extent that those materials or data consist of trade secrets or other proprietary information, are not public information or public documents and shall not be open to public inspection.

(C) The exercise by the director of the powers conferred by ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code for the preservation or creation of jobs and employment opportunities for the people of ~~the~~ this state through the development and efficient utilization of energy resources of the state is in all respects for the benefit of the people of the state, and is determined to be an essential government function and public purpose of the state.

Sec. 1551.12. The director of development may:

(A) Seek, solicit, or acquire personal property or any estate, interest, or right in real property, or services, funds, and other things of value of any kind or character by purchase, lease, gift, grant, contribution, exchange, or otherwise from any person or governmental agency to be held, used, and applied in accordance with and for the purposes of ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code;

(B) Contract for the operation of, and establish rules for the use of, facilities over which the director has supervision or control, which rules may include the limitation of ingress to or egress from such facilities as may be necessary to maintain the security of such facilities and to provide for the safety of those on the premises of such facilities;

(C) Purchase such fire and extended coverage insurance and insurance protecting against liability for damage to property or injury to or death of persons as the director may consider necessary and proper under ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code;

(D) Sponsor, conduct, assist, and encourage conferences, seminars, meetings, institutes, and other forms of meetings; authorize, prepare, publish, and disseminate any form of studies, reports, and other publications; originate, prepare, and assist proposals for the expenditure or granting of funds by any governmental agency or person for purposes of energy resource development; and investigate, initiate, sponsor, participate in, and assist with cooperative activities and programs involving governmental agencies and other entities of other states and jurisdictions;

(E) Do all acts and things necessary and proper to carry out the powers granted and the duties imposed by ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code;

(F) Make grants of funds to any person, organization, or governmental agency of the state for the furnishing of goods or performance of services.

Any person or governmental agency that receives funds from the department of development, or utilizes the facilities of the department under ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code shall agree in writing that all know-how, trade secrets, and other forms of property, rights, and interest arising out of developments, discoveries, or inventions, including patents, copyrights, or royalties thereon, which result in whole or in part from research, studies, or testing conducted by use of such funds or facilities shall be the sole property of the department, except as may be otherwise negotiated and provided by contract in advance of such research, studies, or testing. However, such exceptions do not apply to the director or employees of the department participating in or performing research, tests, or studies.

Rights retained by the department may be assigned, licensed, transferred, sold, or otherwise disposed of, in whole or in part, to any person or governmental agency. Any and all income, royalties, or proceeds derived or retained from such dispositions shall be paid to the state and credited to the general revenue fund.

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

Sec. 1551.15. (A) All general revenue fund moneys required by the department of development for purposes of ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code are subject to appropriation by the general assembly.

(B) The director of development may enter into agreements, make grants, or enter into contracts for the purposes of effecting the construction and operation in this state of experimental, pilot, or demonstration energy resource development facilities. Before making grants or entering contracts, the director shall determine that all of the following criteria are met:

(1) The urgency of public need for the potential results of the experimental, pilot, or demonstration project is high, and there is little likelihood that similar results would be achieved in this state in a timely manner in the absence of state assistance;

(2) The potential opportunities for private interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear to be inadequate to encourage timely results in this state;

(3) The extent of the problems treated and the objectives sought by the project are consistent with the purposes of ~~this chapter~~ sections 1551.01 to 1551.25 of the Revised Code and of general significance to the state.

This determination by the director shall include the facts or reasons justifying it and shall be journalized by the director.

(C) The director may use funds as appropriated, donated, granted, or received for any of the following purposes:

(1) Construction and related architectural or engineering studies or purchase of physical plant and equipment for an experimental, pilot, or demonstration energy resource development facility;

(2) Acquisition and improvement of land, construction of roads, and provision of other public facilities incidental and necessary to the accomplishment of experimental, pilot, or demonstration energy resource development facilities;

(3) Operation of an energy resource development experimental, pilot, or

demonstration project or facility, which could include but not be limited to labor, feedstocks, and repair or replacement parts;

(4) Purchase of all or a portion of the usable output of energy resource development experimental, pilot, or demonstration projects and the disposition of this output for use in the facilities of governmental agencies.

(D) Each grant made pursuant to this section shall be accomplished through written agreements between the department and the person or governmental agency which would effect the construction and operation of the project or facility, and between the department and the persons and governmental agencies which would share the expenses and costs of the project or facility. In addition to such other terms as may be required by law or advised by counsel, each agreement shall provide for each of the following conditions:

(1) The limitation of the department's financial obligations in the project or facility to a specified dollar amount which shall not exceed one-third of the total costs of the project or facility;

(2) The financial participation in the project or facility by the federal government or its agencies, by private corporations doing business in this state, by local governmental agencies, or by other organizations;

(3) The disposition of the assets of the project or facility, should it be terminated or abandoned, in such manner that the department shall be repaid in the same proportion as its share in the total of moneys, property, or other assets expended, contributed, or invested in the project or facility;

(4) The criteria for the identification if and when the project or facility is commercially viable through the profitable disposition of its output;

(5) The termination of the department's financial support at such time the project or facility is commercially viable and the repayment of the department through the future profits, if any, of the project or facility.

Sec. 1551.311. The general assembly hereby finds and declares that the future of the Ohio coal industry lies in the development of clean coal technology and that the disproportionate economic impact on the state under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, warrants maximum federal assistance to ~~the~~ this state for such development. It is therefore imperative that the ~~department of development~~ Ohio air quality development authority created under Chapter 3706. of the Revised Code, its Ohio coal development office, the Ohio coal industry, the Ohio Washington office in the office of the governor, and the state's congressional delegation make every effort to acquire any federal assistance available for the development of clean coal technology, including assisting entities eligible for grants in their acquisition. The Ohio coal

development agenda required by section 1551.34 of the Revised Code shall include, in addition to the other information required by that section, a description of such efforts and a description of the current status of the development of clean coal technology in this state and elsewhere.

Sec. 1551.32. (A) There is hereby established within the ~~department of development~~ Ohio air quality development authority the Ohio coal development office whose purposes are to do all of the following:

(1) Encourage, promote, and support siting, financing, construction, and operation of commercially available or scaled facilities and technologies, including, without limitation, commercial-scale demonstration facilities and, when necessary or appropriate to demonstrate the commercial acceptability of a specific technology, up to three installations within this state utilizing the specific technology, to more efficiently produce, beneficiate, market, or use Ohio coal;

(2) Encourage, promote, and support the market acceptance and increased market use of Ohio coal through technology and market development;

(3) Assist in the financing of coal development facilities;

(4) Encourage, promote, and support, in state-owned buildings, facilities, and operations, use of Ohio coal and electricity sold by utilities and others in this state that use Ohio coal for generation;

(5) Improve environmental quality, particularly through cleaner use of Ohio coal;

(6) Assist and cooperate with governmental agencies, universities and colleges, coal producers, coal miners, electric utilities and other coal users, public and private sector coal development interests, and others in achieving these purposes.

(B) The office shall give priority to improvement or reconstruction of existing facilities and equipment when economically feasible, to construction and operation of commercial-scale facilities, and to technologies, equipment, and other techniques that enable maximum use of Ohio coal in an environmentally acceptable, cost-effective manner.

Sec. 1551.33. (A) The ~~director of development~~ Ohio air quality development authority, by the affirmative vote of a majority of its members, shall appoint and fix the compensation of the director of the Ohio coal development office ~~established under section 1551.32 of the Revised Code~~. The director of the office shall serve at the pleasure of the ~~director of development~~ authority.

(B) The director of the office shall do all of the following:

(1) Biennially prepare and maintain the Ohio coal development agenda

required under section 1551.34 of the Revised Code;

(2) Propose and support policies for the office consistent with the Ohio coal development agenda and develop means to implement the agenda;

(3) Initiate, undertake, and support projects to carry out the office's purposes and ensure that the projects are consistent with and meet the selection criteria established by the Ohio coal development agenda;

(4) Actively encourage joint participation in and, when feasible, joint funding of the office's projects with governmental agencies, electric utilities, universities and colleges, other public or private interests, or any other person;

(5) Establish a table of organization for and employ such employees and agents as are necessary for the administration and operation of the office; Any such employees shall be in the unclassified service and shall serve at the pleasure of the authority.

(6) Appoint specified members of and convene the technical advisory committee established under section 1551.35 of the Revised Code;

(7) Review, with the assistance of the technical advisory committee, proposed coal research and development projects as defined in section 1555.01 of the Revised Code, and coal development projects, submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code. If the director and the advisory committee determine that any such facility or project has as its purpose the enhanced use of Ohio coal in an environmentally acceptable, cost effective manner, promotes energy conservation, is cost effective, and is environmentally sound, the director shall submit to the public utilities commission a report recommending that the commission allow the recovery of costs associated with the facility or project under section 4905.304 of the Revised Code and including the reasons for the recommendation.

(8) Establish such policies, procedures, and guidelines as are necessary to achieve the office's purposes.

(C) ~~With the approval of the director of development~~ By the affirmative vote of a majority of the members of the Ohio air quality development authority, the director of the office may exercise any of the powers and duties of the director of development as the ~~directors~~ authority and the director of the office consider appropriate or desirable to achieve the office's purposes, including, but not limited to, the powers and duties enumerated in sections 1551.11, 1551.12, 1551.13, and 1551.15 of the Revised Code.

Additionally, the director of the office may make loans to governmental agencies or persons for projects to carry out the office's purposes. Fees, charges, rates of interest, times of payment of interest and principal, and

other terms, conditions, and provisions of the loans shall be such as the director of the office determines to be appropriate and in furtherance of the purposes for which the loans are made. The mortgage lien securing any moneys lent by the director of the office may be subordinate to the mortgage lien securing any moneys lent or invested by a financial institution, but shall be superior to that securing any moneys lent or expended by any other person. The moneys used in making the loans shall be disbursed upon order of the director of the office.

Sec. 1551.35. (A) There is hereby established a technical advisory committee to assist the director of the Ohio coal development office ~~established under section 1551.32 of the Revised Code~~ in achieving the office's purposes. The director shall appoint to the committee one member of the public utilities commission and one representative each of coal production companies, the united mine workers of America, electric utilities, manufacturers that use Ohio coal, and environmental organizations, as well as two people with a background in coal research and development technology, one of whom is employed at the time of the member's appointment by a state university, as defined in section 3345.011 of the Revised Code. In addition, the committee shall include four legislative members. The speaker and minority leader of the house of representatives each shall appoint one member of the house of representatives, and the president and minority leader of the senate each shall appoint one member of the senate, to the committee. The director of environmental protection, ~~representing the environmental protection agency, the Ohio air quality director of development authority, and one member of the Ohio water development authority designated by that authority,~~ shall serve on the committee as members ex officio. Any member of the committee may designate in writing a substitute to serve in the member's absence on the committee. The director of environmental protection may designate in writing the chief of the air pollution control division of the agency to represent the agency. Members shall serve on the committee at the pleasure of their appointing authority. Members of the committee appointed by the director of the office and, notwithstanding section 101.26 of the Revised Code, legislative members of the committee, when engaged in their official duties as members of the committee, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code, except that the member of the public utilities commission and, while employed by a state university, the member with a background in coal research, shall not be so compensated. Members shall receive their actual and necessary expenses incurred in the performance of their duties.

(B) The technical advisory committee shall review and make recommendations concerning the Ohio coal development agenda required under section 1551.34 of the Revised Code, project proposals, research and development projects submitted to the office by public utilities for the purpose of section 4905.304 of the Revised Code, proposals for grants, loans, and loan guarantees for purposes of sections 1555.01 to 1555.06 of the Revised Code, and such other topics as the director of the office considers appropriate.

(C) The technical advisory committee may hold an executive session at any regular or special meeting for the purpose of considering research and development project proposals or applications for assistance submitted to the Ohio coal development office under section 1551.33, or sections 1555.01 to 1555.06, of the Revised Code, to the extent that such proposals or applications consist of trade secrets or other proprietary information.

Any materials or data submitted to, made available to, or received by the ~~director of~~ Ohio air quality development authority or the director of the Ohio coal development office in connection with agreements for assistance entered into under this chapter or Chapter 1555. of the Revised Code, or any information taken from such materials or data for any purpose, to the extent that the materials or data consist of trade secrets or other proprietary information, are not public records for the purposes of section 149.43 of the Revised Code.

As used in this division, "trade secrets" has the same meaning as in section 1333.61 of the Revised Code.

Sec. 1555.02. It is hereby declared to be the public policy of ~~the~~ this state through the operations of the Ohio coal development office under this chapter to contribute toward one or more of the following: to provide for the comfort, health, safety, and general welfare of all employees and other inhabitants of ~~the~~ this state through research and development directed toward the discovery of new technologies or the demonstration or application of existing technologies to enable the conversion or use of Ohio coal as a fuel or chemical feedstock in an environmentally acceptable manner thereby enhancing the marketability and fostering the use of this state's vast reserves of coal, to assist in the financing of coal research and development and coal research and development projects or facilities for persons doing business in this state and educational and scientific institutions located in this state, to create or preserve jobs and employment opportunities or improve the economic welfare of the people of ~~the~~ this state, or to assist and cooperate with such persons and educational and scientific institutions in conducting coal research and development. In

furtherance of ~~such~~ this public policy, the Ohio coal development office ~~may~~, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, ~~may~~ make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by such persons or educational or scientific institutions; ~~may~~, with the advice of the technical advisory committee and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code to provide funds for making such loans, loan guarantees, and grants; and ~~may~~, with the advice of the technical advisory committee and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, expend moneys credited to the coal research and development fund created in section 1555.15 of the Revised Code for the purpose of making such loans, loan guarantees, and grants. Determinations by the director of the Ohio coal development office that coal research and development or a coal research and development facility is a coal research and development project under this chapter and is consistent with the purposes of Section 15 of Article VIII, Ohio Constitution, and this chapter shall be conclusive as to the validity and enforceability of the coal research and development general obligations issued to finance such project and of the authorizations, trust agreements or indentures, loan agreements, loan guarantee agreements, or grant agreements, and other agreements made in connection therewith, all in accordance with their terms.

Sec. 1555.03. For the purposes of this chapter, the director of the Ohio coal development office may:

(A) With the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, make loans, guarantee loans, and make grants to persons doing business in this state or to educational or scientific institutions located in this state for coal research and development projects by any such person or educational or scientific institution and adopt rules under Chapter 119. of the Revised Code for making such loans, guarantees, and grants.

(B) In making loans, loan guarantees, and grants under division (A) of

this section and section 1555.04 of the Revised Code, the director of the office shall ensure that an adequate portion of the total amount of those loans, loan guarantees, and grants, as determined by the director with the advice of the technical advisory committee, ~~be~~ is used for conducting research on fundamental scientific problems related to the utilization of Ohio coal and shall ensure, to the maximum feasible extent, joint financial participation by the federal government or other investors or interested parties in conjunction with any such loan, loan guarantee, or grant. The director, in each grant agreement or contract under division (A) of this section, loan contract or agreement under this division or section 1555.04 of the Revised Code, and contract of guarantee under section 1555.05 of the Revised Code, shall require that the facility or project be maintained and kept in good condition and repair by the person or educational or scientific institution to whom the grant or loan was made or for whom the guarantee was made.

(C) From time to time, with the advice of the technical advisory committee and the ~~approval of the director of development~~ affirmative vote of a majority of the members of the Ohio air quality development authority, request the issuance of coal research and development general obligations under section 151.07 of the Revised Code, for any of the purposes set forth in Section 15 of Article VIII, Ohio Constitution, and subject to the limitations therein upon the aggregate total amount of obligations that may be outstanding at any time.

(D) Include as a condition of any loan, loan guarantee, or grant contract or agreement with any such person or educational or scientific institution that the director of the office receive, in addition to payments of principal and interest on any such loan or service charges for any such guarantee, as appropriate, as authorized by Section 15, Article VIII, Ohio Constitution, a reasonable royalty or portion of the income or profits arising out of the developments, discoveries, or inventions, including patents or copyrights ~~which, that~~ result in whole or in part from coal research and development projects conducted under any such contract or agreement, in such amounts and for such period of years as may be negotiated and provided by the contract or agreement in advance of the making of the grant, loan, or loan guarantee. Moneys so received by the director of the office shall be credited to the coal research and development bond service fund.

(E) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, and such other consultants and independent contractors as are necessary in the judgment of the director of the office to carry out this

chapter, and fix the compensation thereof.

(F) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction or operation of any coal research and development project or for coal research and development, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made.

(G) Purchase fire and extended coverage and liability insurance for any coal research and development project, insurance protecting the office and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the director of the office determines necessary or proper under this chapter. Any moneys received by the director from the proceeds of any such insurance with respect to a coal research and development project and any moneys received by the director from the proceeds of any settlement, judgment, foreclosure, or other insurance with respect to a coal research and development project or facility shall be credited to the coal research and development bond service fund.

(H) In the exercise of the powers of the director of the office under this chapter, call to the director's assistance, temporarily, from time to time, any engineers, technical experts, financial experts, and other employees in any state department, agency, or commission, or in the Ohio state university, or other educational institutions financed wholly or partially by ~~the~~ this state for purposes of assisting the director of the office with reviewing and evaluating applications for financial assistance under this chapter, monitoring performance of coal research and development projects receiving financial assistance under this chapter, and reviewing and evaluating the progress and findings of those projects. Such engineers, experts, and employees shall not receive any additional compensation over that which they receive from the department, agency, commission, or educational institution by which they are employed, but they shall be reimbursed for their actual and necessary expenses incurred while working under the direction of the director.

(I) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 1555.04. (A) With respect to coal research and development projects financed wholly or partially from a loan or loan guarantee under this chapter, the director of the Ohio coal development office ~~may~~, in addition to other powers under this chapter, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the

~~approval~~ affirmative vote of the director of development a majority of the members of the Ohio air quality development authority, may enter into loan agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take such actions as ~~he~~ the director of the office considers appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale;.

(B) The authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair any similar authority granted elsewhere in this chapter with respect to other projects.

Sec. 1555.05. (A) Subject to any limitations as to aggregate amounts thereof that may from time to time be prescribed by the general assembly and to other applicable provisions of this chapter, and subject to the ~~one hundred million dollar~~ one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution, the director of the Ohio coal development office ~~may~~, on behalf of ~~the~~ this state, with the advice of the technical advisory committee created in section 1551.35 of the Revised Code and the ~~approval~~ affirmative vote of a majority of the members of the director of development Ohio air quality development authority, may enter into contracts to guarantee the repayment or payment of the unpaid principal amount of loans made to pay the costs of coal research and development projects.

(B) The contract of guarantee may make provision for the conditions of, time for, and manner of fulfillment of the guarantee commitment, subrogation of ~~the~~ this state to the rights of the parties guaranteed and exercise of such parties' rights by the state, giving the state the option of making payment of the principal amount guaranteed in one or more installments and, if deferred, to pay interest thereon from the source specified in division (A) of this section, and any other terms or conditions customary to such guarantees and as the director of the office may approve, and may contain provisions for securing the guarantee in the manner consistent with this section, covenants on behalf of ~~the~~ this state to issue obligations under section 1555.08 of the Revised Code to provide moneys to fulfill such guarantees and covenants, and covenants restricting the aggregate amount of guarantees that may be contracted under this section

and obligations that may be issued under section 151.07 of the Revised Code, and terms pertinent to either, to better secure the parties guaranteed.

(C) The director of the office may fix service charges for making a guarantee. Such charges shall be payable at such times and place and in such amounts and manner as may be prescribed by the director. Moneys received from such charges shall be credited to the coal research and development bond service fund.

(D) Any guaranteed parties under this section, by any suitable form of legal proceedings and except to the extent that their rights are restricted by the guarantee documents, may ~~by any suitable form of legal proceedings,~~ protect and enforce any rights under the laws of this state or granted by such guarantee or guarantee documents. Such rights include the right to compel the performance of all duties of the office required by this section or the guarantee or guarantee documents; and in the event of default with respect to the payment of any guarantees, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged to such guarantee with full power to pay, and to provide for payment of, such guarantee, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge or apply additional revenues or receipts or other income or moneys of ~~the~~ this state. Each duty of the office and its director and employees required or undertaken under this section or a guarantee made under this section is hereby established as a duty of the office and of its director and each such employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the director of the office, or its employees, are not liable in their personal capacities on any guarantees or contracts to make guarantees by the director.

Sec. 1555.06. Upon application by the director of the Ohio coal development office with the ~~approval~~ affirmative vote of a majority of the director of development members of the Ohio air quality development authority, the controlling board ~~may~~, from appropriations available to the board, may provide funds for surveys or studies by the office of any proposed coal research and development project subject to repayment by the office from funds available to it, within the time fixed by the board. Funds to be repaid shall be charged by the office to the appropriate coal research and development project and the amount thereof shall be a cost of the project. This section does not abrogate the authority of the controlling board to otherwise provide funds for use by the office in the exercise of the powers

granted to it by this chapter.

Sec. 1555.08. (A) Subject to the limitations provided in Section 15 of Article VIII, Ohio Constitution, the commissioners of the sinking fund, upon certification by the director of the Ohio coal development office of the amount of moneys or additional moneys needed in the coal research and development fund for the purpose of making grants or loans for allowable costs, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, or providing moneys for loan guarantees, shall issue obligations of the state under this section in amounts authorized by the general assembly; provided that such obligations may be issued to the extent necessary to satisfy the covenants in contracts of guarantee made under section 1555.05 of the Revised Code to issue obligations to meet such guarantees, notwithstanding limitations otherwise applicable to the issuance of obligations under this section except the one-hundred-million-dollar limitation provided in Section 15 of Article VIII, Ohio Constitution. The proceeds of such obligations, except for the portion to be deposited in the coal research and development bond service fund as may be provided in the bond proceedings, shall as provided in the bond proceedings be deposited in the coal research and development fund. The commissioners of the sinking fund may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary in their judgment to carry out this section.

(B) The full faith and credit of the state of Ohio is hereby pledged to obligations issued under this section. The right of the holders and owners to payment of bond service charges is limited to all or that portion of the moneys pledged thereto pursuant to the bond proceedings in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(C) Obligations shall be authorized by resolution of the commissioners of the sinking fund on request of the director of the Ohio coal development

office as provided in section 1555.02 of the Revised Code and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding forty years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the commissioners of the sinking fund may determine, of the moneys credited to the coal research and development bond service fund to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The moneys so pledged and thereafter received by the state are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such moneys is effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge, and every covenant and agreement made with respect thereto, made in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at the option of the commissioners of the sinking fund at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

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

(5) The deposit, investment, and application of the coal research and development bond service fund, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this chapter, with respect to particular moneys; provided, that any bank or trust company which acts as depository of any moneys in the fund may furnish such indemnifying bonds or may pledge such securities as required by the commissioners of the sinking fund;

(6) Any other provision of the bond proceedings being binding upon the commissioners of the sinking fund, or such other body or person as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision which may be made in a trust agreement or indenture;

(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security obtained or to be obtained for loans under this chapter.

(E) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations shall be signed by such members of the commissioners of the sinking fund as are designated in the resolution authorizing the obligations or bear the facsimile signatures of such members. Any coupons attached to the obligations shall bear the facsimile signature of the treasurer of state. Any obligations may be executed by the persons who, on the date of execution, are the commissioners although on the date of such bonds the persons were not the commissioners. Any coupons may be executed by the person who, on the date of execution, is the treasurer of state although on the date of such coupons the person was not the treasurer of state. In case any officer or commissioner whose signature or a facsimile of whose signature appears on any such obligations or any coupons ceases to be such officer or commissioner before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the individual had remained such officer or commissioner until such delivery; and in case the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(F) All obligations except loan guarantees are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the commissioners of the sinking fund determine. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

(H) Pending preparation of definitive obligations, the commissioners of the sinking fund may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the commissioners of the sinking fund, obligations may be secured additionally by a trust agreement or indenture between the commissioners and a corporate trustee, which may be any trust company or bank having its principal place of business within the state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions that are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the commissioners of the sinking fund made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

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

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the commissioners of the

sinking fund agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's rights are restricted by the bond proceedings, may by any suitable form of legal proceedings protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the commissioners of the sinking fund, the ~~director of development~~ Ohio air quality development authority, or the Ohio coal development office required by this chapter and Chapter 1551. of the Revised Code or the bond proceedings; to enjoin unlawful activities; and in the event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the commissioners, the ~~director~~ authority, or the office in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the moneys pledged, other than those in the custody of the treasurer of state, that are pledged to the payment of the bond service charges on such obligations or that are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the commissioners of the sinking fund or the state or governmental agencies of the state to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any property.

Each duty of the commissioners of the sinking fund and their employees, and of each governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any grant, loan, or loan guarantee agreement made under authority of this chapter, and in every agreement by or with the commissioners, is hereby established as a duty of the commissioners, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The persons who are at the time the commissioners of the sinking fund, or their employees, are not liable in their personal capacities on any obligations issued by the commissioners or any agreements of or with the commissioners.

(K) Obligations issued under this section are lawful investments for

banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any governmental agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(L) If the law or the instrument creating a trust pursuant to division (I) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds established in accordance with section 1111.14 of the Revised Code and consisting exclusively of any such securities, notwithstanding division (A)(1)(c) of that section. The income from such investments shall be credited to such funds as the commissioners of the sinking fund determine, and such investments may be sold at such times as the commissioners determine or authorize.

(M) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Moneys to the credit of the bond service fund shall be disbursed on the order of the treasurer of state; provided, that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(N) The commissioners of the sinking fund may pledge all, or such portion as they determine, of the receipts of the bond service fund to the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to

pledged receipts as authorized by this chapter, which provisions control notwithstanding any other provisions of law pertaining thereto.

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

(1) Maintain statutory authority for and cause to be levied and collected taxes so that the pledged receipts are sufficient in amount to meet bond service charges, and the establishment and maintenance of any reserves and other requirements provided for in the bond proceedings, and, as necessary, to meet covenants contained in any loan guarantees made under this chapter;

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

(P) All moneys received by or on account of the state and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the coal research and development bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. During the period beginning with the date of the first issuance of obligations and continuing during such time as any such obligations are outstanding, and so long as moneys in the bond service fund are insufficient to pay all bond service charges on such obligations becoming due in each year, a sufficient amount of moneys of the state are committed and shall be paid to the bond service fund in each year for the purpose of paying the bond service charges becoming due in that year without necessity for further act of appropriation for such purpose. The bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation. All investment earnings of the fund shall be credited to the fund.

(Q) For purposes of establishing the limitations contained in Section 15 of Article VIII, Ohio Constitution, the "principal amount" refers to the aggregate of the offering price of the bonds or notes. "Principal amount" does not refer to the aggregate value at maturity or redemption of the bonds or notes.

(R) This section applies only with respect to obligations issued and delivered prior to September 30, 2000.

Sec. 1555.17. All final actions of the director of the Ohio coal development office shall be journalized and such journal shall be open to inspection of the public at all reasonable times. Any materials or data, to the extent that they consist of trade secrets, as defined in section 1333.61 of the Revised Code, or other proprietary information, that are submitted or made available to, or received by, the ~~director of development~~ Ohio air quality development authority or the director of the Ohio coal development office, in connection with agreements for assistance entered into under this chapter or Chapter ~~1555~~, 1551, of the Revised Code, or any information taken from those materials or data, are not public records for the ~~proposes~~ purposes of section 149.43 of the Revised Code.

Sec. 1563.42. The operator of a mine, before the pillars are drawn previous to the abandonment of any part of the mine, shall have a correct map of such part of the mine made, showing its area and workings to the day of the abandonment and the pillars drawn previous to abandonment, and file such map within ninety days after the abandonment of such mine, in the office of the county recorder of the county where such mine is located, and with the chief of the division of mineral resources management. Such map shall have attached the usual certificate of the mining engineer making it, and the mine foreperson in charge of the underground workings of the mine, and such operator shall pay to the recorder for filing such map, a base fee of five dollars for services and a housing trust fee of five dollars pursuant to section 317.36 of the Revised Code.

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

Sec. 1702.59. (A) Every nonprofit corporation, incorporated under the general corporation laws of this state, or previous laws, or under special provisions of the Revised Code, or created before September 1, 1851, which corporation has expressly or impliedly elected to be governed by the laws passed since that date, and whose articles or other documents are filed with the secretary of state, shall file with the secretary of state a verified statement of continued existence, signed by a director, officer, or three members in good standing, setting forth the corporate name, the place where the principal office of the corporation is located, the date of incorporation, the fact that the corporation is still actively engaged in exercising its corporate privileges, and the name and address of its agent appointed pursuant to section 1702.06 of the Revised Code.

(B) Each corporation required to file a statement of continued existence

shall file it with the secretary of state within each five years after the date of incorporation or of the last corporate filing.

(C) Corporations specifically exempted by division (N) of section 1702.06 of the Revised Code, or whose activities are regulated or supervised by another state official, agency, bureau, department, or commission are exempted from this section.

(D) The secretary of state shall give notice in writing and provide a form for compliance with this section to each corporation required by this section to file the statement of continued existence, such notice and form to be mailed to the last known address of the corporation as it appears on the records of the secretary of state or which the secretary of state may ascertain upon a reasonable search.

(E) If any nonprofit corporation required by this section to file a statement of continued existence fails to file the statement required every fifth year, then the secretary of state shall cancel the articles of such corporation, make a notation of the cancellation on the records, and mail to the corporation a certificate of the action so taken.

(F) A corporation whose articles have been canceled may be reinstated by filing an application for reinstatement and paying to the secretary of state the fee specified in division (Q) of section 111.16 of the Revised Code. The name of a corporation whose articles have been canceled shall be reserved for a period of one year after the date of cancellation. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation and it appears that a corporate name, limited liability company name, limited liability partnership name, limited partnership name, or trade name has been filed, the name of which is not distinguishable upon the record as provided in section 1702.06 of the Revised Code, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code. The rights, privileges, and franchises of a corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

(G) The secretary of state shall furnish the tax commissioner a list of all corporations failing to file the required statement of continued existence.

Sec. 1711.13. County agricultural societies are hereby declared bodies corporate and politic, and as such they shall be capable of suing and being sued and of holding in fee simple any real estate purchased by them as sites

for their fairs. ~~They~~ In addition, they may ~~mortgage~~ do either or both of the following:

(A) Mortgage their grounds for the purpose of renewing or extending pre-existing debts, and for the purpose of furnishing money to purchase additional land; but if the board of county commissioners has caused money to be paid out of the county treasury to aid in the purchase of such the grounds, no mortgage shall be given without the consent of such the board.

Deeds, conveyances, and agreements in writing, made to and by such societies, for the purchase of real estate as sites for their fairs, shall vest a title in fee simple to the real estate ~~therein~~ described in those documents, without words of inheritance.

(B) Enter into agreements to obtain loans and credit for expenses related to the purposes of the county agricultural society, provided that the agreements are in writing and are first approved by the board of directors of the society. The total net indebtedness incurred by a county agricultural society pursuant to this division shall not exceed an amount equal to twenty-five per cent of its annual revenues.

Sec. 1711.131. (A) The board of directors of a county agricultural society or an independent agricultural society may authorize by resolution an officer or employee of the agricultural society to use a credit card held by the board to pay for expenses related to the purposes of the agricultural society. If a board elects to authorize the use of a credit card held by the board as described in this section, the board first shall adopt a policy specifying the purposes for which the credit card may be used.

(B) An officer or employee of an agricultural society who makes unauthorized use of a credit card held by the society's board of directors is personally liable for the unauthorized use. The prosecuting attorney of the appropriate county shall recover the amount of any unauthorized expenses incurred by the officer or employee through the misuse of the credit card in a civil action in any court of competent jurisdiction. This section does not limit any other liability of the officer or employee for the unauthorized use of a credit card held by the board of directors.

(C) An officer or employee who is authorized to use a credit card held by the board of directors of an agricultural society and who suspects the loss, theft, or possibility of unauthorized use of the credit card immediately shall notify the board in writing of the suspected loss, theft, or possible unauthorized use. The officer or employee may be held personally liable for not more than fifty dollars in unauthorized debt incurred before the board receives the notification.

(D) The misuse by an officer or employee of an agricultural society of a

credit card held by the society's board of directors is a violation of section 2913.21 of the Revised Code.

Sec. 1711.15. In any county in which there is a duly organized county agricultural society, the board of county commissioners or the county agricultural society itself may purchase or lease, for a term of not less than twenty years, real estate on which to hold fairs under the management and control of the county agricultural society, and may erect ~~thereon~~ suitable buildings on the real estate and otherwise improve it.

In counties in which there is a county agricultural society that has purchased, or leased, for a term of not less than twenty years, real estate as a site on which to hold fairs or in which the title to the site is vested in fee in the county, the board of county commissioners may erect or repair buildings or otherwise improve the site and pay the rental ~~thereof~~ of it, or contribute to or pay any other form of indebtedness of the society, if the director of agriculture has certified to the board that the county agricultural society is complying with all laws and rules governing the operation of county agricultural societies. The board may appropriate from the general fund any amount that it considers necessary for any of those purposes.

Sec. 1711.17. (A) In any counties in which there is a duly organized independent agricultural society, the respective boards of county commissioners may purchase or lease jointly, for a term of not less than twenty years, real estate on which to hold fairs under the management and control of the society, and may erect suitable buildings and otherwise improve the property, and pay the rental thereof, or contribute to or pay any other form of indebtedness of the society, if the director of agriculture has certified to the board that the independent agricultural society is complying with all laws and rules governing the operation of county agricultural societies. The boards may appropriate from their respective general funds such an amount as they consider necessary for any of those purposes.

(B) An independent agricultural society may purchase or lease, for a term of not less than twenty years, real estate on which to hold fairs under its management and control and may erect suitable buildings on the real estate and otherwise improve it.

Sec. 1751.05. (A) The superintendent of insurance shall issue or deny a certificate of authority to establish or operate a health insuring corporation to any corporation filing an application pursuant to section 1751.03 of the Revised Code within forty-five days of the superintendent's receipt of the certification from the director of health under division (C) of section 1751.04 of the Revised Code. A certificate of authority shall be issued upon payment of the application fee prescribed in section 1751.44 of the Revised

Code if the superintendent is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations.

(2) The director certifies, in accordance with division (C) of section 1751.04 of the Revised Code, that the organization's proposed plan of operation meets the requirements of division (B) of that section and sections 3702.51 to 3702.62 of the Revised Code. If, after the director has certified compliance, the application is amended in a manner that affects its approval under section 1751.04 of the Revised Code, the superintendent shall request the director to review and recertify the amended plan of operation. Within forty-five days of receipt of the amended plan from the superintendent, the director shall certify to the superintendent, pursuant to section 1751.04 of the Revised Code, whether or not the amended plan meets the requirements of section 1751.04 of the Revised Code. The superintendent's forty-five-day review period shall cease to run as of the date on which the amended plan is transmitted to the director and shall remain suspended until the superintendent receives a new certification from the director.

(3) The applicant constitutes an appropriate mechanism to effectively provide or arrange for the provision of the basic health care services, supplemental health care services, or specialty health care services to be provided to enrollees.

(4) The applicant is financially responsible, complies with section 1751.28 of the Revised Code, and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the superintendent may consider:

(a) The financial soundness of the applicant's arrangements for health care services, including the applicant's proposed contractual periodic prepayments or premiums and the use of copayments and deductibles;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other person for insuring the payment of the cost of health care services or providing for automatic applicability of an alternative coverage in the event of discontinuance of the health insuring corporation's operations;

(d) Any agreement with providers or health care facilities for the provision of health care services;

(e) Any deposit of securities submitted in accordance with section 1751.27 of the Revised Code as a guarantee that the obligations will be performed.

(5) The applicant has submitted documentation of an arrangement to provide health care services to its enrollees until the expiration of the

enrollees' contracts with the applicant if a health care plan or the operations of the health insuring corporation are discontinued prior to the expiration of the enrollees' contracts. An arrangement to provide health care services may be made by using any one, or any combination, of the following methods:

- (a) The maintenance of insolvency insurance;
 - (b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days;
 - (c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations;
 - (d) Such other methods as approved by the superintendent.
- (6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to the public at large, as determined by the superintendent.
- (7) Any deficiencies certified by the director have been corrected.
- (8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code.

(B) If an applicant elects to fulfill the requirements of division (A)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason.

(C) A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code.

Sec. 1751.11. (A) Every subscriber of a health insuring corporation is entitled to an evidence of coverage for the health care plan under which health care benefits are provided.

(B) Every subscriber of a health insuring corporation that offers basic health care services is entitled to an identification card or similar document that specifies the health insuring corporation's name as stated in its articles of incorporation, and any trade or fictitious names used by the health insuring corporation. The identification card or document shall list at least one toll-free telephone number that provides the subscriber with access, to information on a twenty-four-hours-per-day, seven-days-per-week basis, as to how health care services may be obtained. The identification card or document shall also list at least one toll-free number that, during normal business hours, provides the subscriber with access to information on the

coverage available under the subscriber's health care plan and information on the health care plan's internal and external review processes.

(C) No evidence of coverage, or amendment to the evidence of coverage, shall be delivered, issued for delivery, renewed, or used, until the form of the evidence of coverage or amendment has been filed by the health insuring corporation with the superintendent of insurance. If the superintendent does not disapprove the evidence of coverage or amendment within sixty days after it is filed it shall be deemed approved, unless the superintendent sooner gives approval for the evidence of coverage or amendment. With respect to an amendment to an approved evidence of coverage, the superintendent only may disapprove provisions amended or added to the evidence of coverage. If the superintendent determines within the sixty-day period that any evidence of coverage or amendment fails to meet the requirements of this section, the superintendent shall so notify the health insuring corporation and it shall be unlawful for the health insuring corporation to use such evidence of coverage or amendment. At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw an approval, deemed or actual, of any evidence of coverage or amendment on any of the grounds stated in this section. Such disapproval shall be effected by a written order, which shall state the grounds for disapproval and shall be issued in accordance with Chapter 119. of the Revised Code.

(D) No evidence of coverage or amendment shall be delivered, issued for delivery, renewed, or used:

(1) If it contains provisions or statements that are inequitable, untrue, misleading, or deceptive;

(2) Unless it contains a clear, concise, and complete statement of the following:

(a) The health care services and insurance or other benefits, if any, to which an enrollee is entitled under the health care plan;

(b) Any exclusions or limitations on the health care services, type of health care services, benefits, or type of benefits to be provided, including copayments and deductibles;

(c) An enrollee's personal financial obligation for noncovered services;

(d) Where and in what manner general information and information as to how health care services may be obtained is available, including a toll-free telephone number;

(e) The premium rate with respect to individual and conversion contracts, and relevant copayment and deductible provisions with respect to all contracts. The statement of the premium rate, however, may be contained

in a separate insert.

(f) The method utilized by the health insuring corporation for resolving enrollee complaints;

(g) The utilization review, internal review, and external review procedures established under sections 1751.77 to 1751.85 of the Revised Code.

(3) Unless it provides for the continuation of an enrollee's coverage, in the event that the enrollee's coverage under the group policy, contract, certificate, or agreement terminates while the enrollee is receiving inpatient care in a hospital. This continuation of coverage shall terminate at the earliest occurrence of any of the following:

(a) The enrollee's discharge from the hospital;

(b) The determination by the enrollee's attending physician that inpatient care is no longer medically indicated for the enrollee; however, nothing in division (D)(3)(b) of this section precludes a health insuring corporation from engaging in utilization review as described in the evidence of coverage.

(c) The enrollee's reaching the limit for contractual benefits;

(d) The effective date of any new coverage.

(4) Unless it contains a provision that states, in substance, that the health insuring corporation is not a member of any guaranty fund, and that in the event of the health insuring corporation's insolvency, an enrollee is protected only to the extent that the hold harmless provision required by section 1751.13 of the Revised Code applies to the health care services rendered;

(5) Unless it contains a provision that states, in substance, that in the event of the insolvency of the health insuring corporation, an enrollee may be financially responsible for health care services rendered by a provider or health care facility that is not under contract to the health insuring corporation, whether or not the health insuring corporation authorized the use of the provider or health care facility.

(E) Notwithstanding divisions (C) and (D) of this section, a health insuring corporation may use an evidence of coverage that provides for the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare contract, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or an evidence of coverage that provides for the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the

medical assistance program or medicaid, provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code, or an evidence of coverage that provides for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or an evidence of coverage that provides for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The evidence of coverage has been approved by the United States department of health and human services, the United States office of personnel management, the Ohio department of job and family services, or the department of administrative services.

(2) The evidence of coverage is filed with the superintendent of insurance prior to use and is accompanied by documentation of approval from the United States department of health and human services, the United States office of personnel management, the Ohio department of job and family services, or the department of administrative services.

Sec. 1751.12. (A)(1) No contractual periodic prepayment and no premium rate for nongroup and conversion policies for health care services, or any amendment to them, may be used by any health insuring corporation at any time until the contractual periodic prepayment and premium rate, or amendment, have been filed with the superintendent of insurance, and shall not be effective until the expiration of sixty days after their filing unless the superintendent sooner gives approval. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent shall disapprove the filing, if the superintendent determines within the sixty-day period that the contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees. The superintendent shall notify the health insuring corporation of the disapproval, and it shall thereafter be unlawful for the health insuring corporation to use the contractual periodic prepayment or premium rate, or amendment.

(2) No contractual periodic prepayment for group policies for health care services shall be used until the contractual periodic prepayment has been filed with the superintendent. The filing shall be accompanied by an actuarial certification in the form prescribed by the superintendent. The superintendent may reject a filing made under division (A)(2) of this section at any time, with at least thirty days' written notice to a health insuring corporation, if the contractual periodic prepayment is not in accordance with

sound actuarial principles or is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(3) At any time, the superintendent, upon at least thirty days' written notice to a health insuring corporation, may withdraw the approval given under division (A)(1) of this section, deemed or actual, of any contractual periodic prepayment or premium rate, or amendment, based on information that either of the following applies:

(a) The contractual periodic prepayment or premium rate, or amendment, is not in accordance with sound actuarial principles.

(b) The contractual periodic prepayment or premium rate, or amendment, is not reasonably related to the applicable coverage and characteristics of the applicable class of enrollees.

(4) Any disapproval under division (A)(1) of this section, any rejection of a filing made under division (A)(2) of this section, or any withdrawal of approval under division (A)(3) of this section, shall be effected by a written notice, which shall state the specific basis for the disapproval, rejection, or withdrawal and shall be issued in accordance with Chapter 119. of the Revised Code.

(B) Notwithstanding division (A) of this section, a health insuring corporation may use a contractual periodic prepayment or premium rate for policies used for the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or for policies used for the coverage of beneficiaries enrolled in the federal employees health benefits program pursuant to 5 U.S.C.A. 8905, or for policies used for the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code, or for policies used for the coverage of beneficiaries under any other federal health care program regulated by a federal regulatory body, or for policies used for the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services, if both of the following apply:

(1) The contractual periodic prepayment or premium rate has been approved by the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(2) The contractual periodic prepayment or premium rate is filed with the superintendent prior to use and is accompanied by documentation of

approval from the United States department of health and human services, the United States office of personnel management, the department of job and family services, or the department of administrative services.

(C) The administrative expense portion of all contractual periodic prepayment or premium rate filings submitted to the superintendent for review must reflect the actual cost of administering the product. The superintendent may require that the administrative expense portion of the filings be itemized and supported.

(D)(1) Copayments must be reasonable and must not be a barrier to the necessary utilization of services by enrollees.

(2) A health insuring corporation, in order to ensure that copayments are reasonable and not a barrier to the necessary utilization of basic health care services by enrollees, may ~~not impose~~ do one of the following:

(a) Impose copayment charges on any single covered basic health care services service that does not exceed thirty forty per cent of the total average cost to the health insuring corporation of providing any single covered health care the service, except for physician office visits, emergency health services, and urgent care services;

(b) Impose copayment charges that annually do not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, when aggregated as to all persons covered under the filed product in question. In addition, annual copayment charges as to each enrollee shall not exceed twenty per cent of the total annual cost to the health insuring corporation of providing all covered basic health care services, including physician office visits, urgent care services, and emergency health services, as to such enrollee. The total annual cost of providing a health care service is the cost to the health insuring corporation of providing the health care service to its enrollees as reduced by any applicable provider discount. An open panel plan may not impose copayments on out-of-network benefits that exceed fifty per cent of the total cost of providing any single covered health care service.

(3) To ensure that copayments are reasonable and not a barrier to the utilization of basic health care services, a health insuring corporation may not impose, in any contract year, on any subscriber or enrollee, copayments that exceed two hundred per cent of the total average annual premium rate to the subscriber subscribers or enrollees. ~~This limitation of two hundred per cent does not include any reasonable copayments that are not a barrier to the necessary utilization of health care services by enrollees and that are imposed on physician office visits, emergency health services, urgent care~~

~~services, supplemental health care services, or specialty health care services.~~

(E) A health insuring corporation shall not impose lifetime maximums on basic health care services. However, a health insuring corporation may establish a benefit limit for inpatient hospital services that are provided pursuant to a policy, contract, certificate, or agreement for supplemental health care services.

(F) A health insuring corporation may require that an enrollee pay an annual deductible that does not exceed one thousand dollars per enrollee or two thousand dollars per family. The superintendent may adopt rules defining different annual deductible amounts for plans with an employer-sponsored medical savings account, health reimbursement arrangement, or flexible spending account.

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, either directly or indirectly, enter into contracts for the provision of health care services with a sufficient number and types of providers and health care facilities to ensure that all covered health care services will be accessible to enrollees from a contracted provider or health care facility.

(b) A health insuring corporation shall not refuse to contract with a physician for the provision of health care services or refuse to recognize a physician as a specialist on the basis that the physician attended an educational program or a residency program approved or certified by the American osteopathic association. A health insuring corporation shall not refuse to contract with a health care facility for the provision of health care services on the basis that the health care facility is certified or accredited by the American osteopathic association or that the health care facility is an osteopathic hospital as defined in section 3702.51 of the Revised Code.

(c) Nothing in division (A)(1)(b) of this section shall be construed to require a health insuring corporation to make a benefit payment under a closed panel plan to a physician or health care facility with which the health insuring corporation does not have a contract, provided that none of the bases set forth in that division are used as a reason for failing to make a benefit payment.

(2) When a health insuring corporation is unable to provide a covered health care service from a contracted provider or health care facility, the health insuring corporation must provide that health care service from a noncontracted provider or health care facility consistent with the terms of the enrollee's policy, contract, certificate, or agreement. The health insuring corporation shall either ensure that the health care service be provided at no greater cost to the enrollee than if the enrollee had obtained the health care service from a contracted provider or health care facility, or make other

arrangements acceptable to the superintendent of insurance.

(3) Nothing in this section shall prohibit a health insuring corporation from entering into contracts with out-of-state providers or health care facilities that are licensed, certified, accredited, or otherwise authorized in that state.

(B)(1) A health insuring corporation shall, either directly or indirectly, enter into contracts with all providers and health care facilities through which health care services are provided to its enrollees.

(2) A health insuring corporation, upon written request, shall assist its contracted providers in finding stop-loss or reinsurance carriers.

(C) A health insuring corporation shall file an annual certificate with the superintendent certifying that all provider contracts and contracts with health care facilities through which health care services are being provided contain the following:

(1) A description of the method by which the provider or health care facility will be notified of the specific health care services for which the provider or health care facility will be responsible, including any limitations or conditions on such services;

(2) The specific hold harmless provision specifying protection of enrollees set forth as follows:

"[Provider/Health Care Facility] agrees that in no event, including but not limited to nonpayment by the health insuring corporation, insolvency of the health insuring corporation, or breach of this agreement, shall [Provider/Health Care Facility] bill, charge, collect a deposit from, seek remuneration or reimbursement from, or have any recourse against, a subscriber, enrollee, person to whom health care services have been provided, or person acting on behalf of the covered enrollee, for health care services provided pursuant to this agreement. This does not prohibit [Provider/Health Care Facility] from collecting co-insurance, deductibles, or copayments as specifically provided in the evidence of coverage, or fees for uncovered health care services delivered on a fee-for-service basis to persons referenced above, nor from any recourse against the health insuring corporation or its successor."

(3) Provisions requiring the provider or health care facility to continue to provide covered health care services to enrollees in the event of the health insuring corporation's insolvency or discontinuance of operations. The provisions shall require the provider or health care facility to continue to provide covered health care services to enrollees as needed to complete any medically necessary procedures commenced but unfinished at the time of the health insuring corporation's insolvency or discontinuance of operations.

The completion of a medically necessary procedure shall include the rendering of all covered health care services that constitute medically necessary follow-up care for that procedure. If an enrollee is receiving necessary inpatient care at a hospital, the provisions may limit the required provision of covered health care services relating to that inpatient care in accordance with division (D)(3) of section 1751.11 of the Revised Code, and may also limit such required provision of covered health care services to the period ending thirty days after the health insuring corporation's insolvency or discontinuance of operations.

The provisions required by division (C)(3) of this section shall not require any provider or health care facility to continue to provide any covered health care service after the occurrence of any of the following:

(a) The end of the thirty-day period following the entry of a liquidation order under Chapter 3903. of the Revised Code;

(b) The end of the enrollee's period of coverage for a contractual prepayment or premium;

(c) The enrollee obtains equivalent coverage with another health insuring corporation or insurer, or the enrollee's employer obtains such coverage for the enrollee;

(d) The enrollee or the enrollee's employer terminates coverage under the contract;

(e) A liquidator effects a transfer of the health insuring corporation's obligations under the contract under division (A)(8) of section 3903.21 of the Revised Code.

(4) A provision clearly stating the rights and responsibilities of the health insuring corporation, and of the contracted providers and health care facilities, with respect to administrative policies and programs, including, but not limited to, payments systems, utilization review, quality assurance, assessment, and improvement programs, credentialing, confidentiality requirements, and any applicable federal or state programs;

(5) A provision regarding the availability and confidentiality of those health records maintained by providers and health care facilities to monitor and evaluate the quality of care, to conduct evaluations and audits, and to determine on a concurrent or retrospective basis the necessity of and appropriateness of health care services provided to enrollees. The provision shall include terms requiring the provider or health care facility to make these health records available to appropriate state and federal authorities involved in assessing the quality of care or in investigating the grievances or complaints of enrollees, and requiring the provider or health care facility to comply with applicable state and federal laws related to the confidentiality

of medical or health records.

(6) A provision that states that contractual rights and responsibilities may not be assigned or delegated by the provider or health care facility without the prior written consent of the health insuring corporation;

(7) A provision requiring the provider or health care facility to maintain adequate professional liability and malpractice insurance. The provision shall also require the provider or health care facility to notify the health insuring corporation not more than ten days after the provider's or health care facility's receipt of notice of any reduction or cancellation of such coverage.

(8) A provision requiring the provider or health care facility to observe, protect, and promote the rights of enrollees as patients;

(9) A provision requiring the provider or health care facility to provide health care services without discrimination on the basis of a patient's participation in the health care plan, age, sex, ethnicity, religion, sexual preference, health status, or disability, and without regard to the source of payments made for health care services rendered to a patient. This requirement shall not apply to circumstances when the provider or health care facility appropriately does not render services due to limitations arising from the provider's or health care facility's lack of training, experience, or skill, or due to licensing restrictions.

(10) A provision containing the specifics of any obligation on the primary care provider to provide, or to arrange for the provision of, covered health care services twenty-four hours per day, seven days per week;

(11) A provision setting forth procedures for the resolution of disputes arising out of the contract;

(12) A provision stating that the hold harmless provision required by division (C)(2) of this section shall survive the termination of the contract with respect to services covered and provided under the contract during the time the contract was in effect, regardless of the reason for the termination, including the insolvency of the health insuring corporation;

(13) A provision requiring those terms that are used in the contract and that are defined by this chapter, be used in the contract in a manner consistent with those definitions.

This division does not apply to the coverage of beneficiaries enrolled in Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, pursuant to a medicare risk contract or medicare cost contract, or to the coverage of beneficiaries enrolled in the federal employee health benefits program pursuant to 5 U.S.C.A. 8905, or to the coverage of beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620

(1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, provided by the department of job and family services under Chapter 5111. of the Revised Code, or to the coverage of beneficiaries under any federal health care program regulated by a federal regulatory body, or to the coverage of beneficiaries under any contract covering officers or employees of the state that has been entered into by the department of administrative services.

(D)(1) No health insuring corporation contract with a provider or health care facility shall contain any of the following:

(a) A provision that directly or indirectly offers an inducement to the provider or health care facility to reduce or limit medically necessary health care services to a covered enrollee;

(b) A provision that penalizes a provider or health care facility that assists an enrollee to seek a reconsideration of the health insuring corporation's decision to deny or limit benefits to the enrollee;

(c) A provision that limits or otherwise restricts the provider's or health care facility's ethical and legal responsibility to fully advise enrollees about their medical condition and about medically appropriate treatment options;

(d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services;

(e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets which the provider or health care facility has no privilege or permission to disclose.

(2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following:

(a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service;

(b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols.

(E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts.

(F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider

or health care facility, the subcontract with the provider or health care facility shall do all of the following:

(1) Contain the provisions required by divisions (C) and (G) of this section, as made applicable to an intermediary organization, without the inclusion of inducements or penalties described in division (D) of this section;

(2) Acknowledge that the health insuring corporation is a third-party beneficiary to the agreement;

(3) Acknowledge the health insuring corporation's role in approving the participation of the provider or health care facility, pursuant to division (E) of this section.

(G) Any provider contract or contract with a health care facility shall clearly specify the health insuring corporation's statutory responsibility to monitor and oversee the offering of covered health care services to its enrollees.

(H)(1) A health insuring corporation shall maintain its provider contracts and its contracts with health care facilities at one or more of its places of business in this state, and shall provide copies of these contracts to facilitate regulatory review upon written notice by the superintendent of insurance.

(2) Any contract with an intermediary organization that accepts compensation shall include provisions requiring the intermediary organization to provide the superintendent with regulatory access to all books, records, financial information, and documents related to the provision of health care services to subscribers and enrollees under the contract. The contract shall require the intermediary organization to maintain such books, records, financial information, and documents at its principal place of business in this state and to preserve them for at least three years in a manner that facilitates regulatory review.

(I)(1) A health insuring corporation shall notify its affected enrollees of the termination of a contract for the provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract

with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1751.16. (A) Except as provided in division (F) of this section, every group contract issued by a health insuring corporation shall provide an option for conversion to an individual contract issued on a direct-payment basis to any subscriber covered by the group contract who terminates employment or membership in the group, unless:

(1) Termination of the conversion option or contract is based upon nonpayment of premium after reasonable notice in writing has been given by the health insuring corporation to the subscriber.

(2) The subscriber is, or is eligible to be, covered for benefits at least comparable to the group contract under any of the following:

(a) Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) Any act of congress or law under this or any other state of the United States providing coverage at least comparable to the benefits under division (A)(2)(a) of this section;

(c) Any policy of insurance or health care plan providing coverage at least comparable to the benefits under division (A)(2)(a) of this section.

(B)(1) The direct-payment contract offered by the health insuring corporation pursuant to division (A) of this section shall provide the following:

(a) In the case of an individual who is not a federally eligible individual, benefits comparable to benefits in any of the individual contracts then being issued to individual subscribers by the health insuring corporation;

(b) In the case of a federally eligible individual, a basic and standard plan established by the board of directors of the Ohio health reinsurance program or plans substantially similar to the basic and standard plan in

benefit design and scope of covered services. For purposes of division (B)(1)(b) of this section, the superintendent of insurance shall determine whether a plan is substantially similar to the basic or standard plan in benefit design and scope of covered services. The contractual periodic prepayments charged for such plans may not exceed an amount that is two times the midpoint of the standard rate charged any other individual of a group to which the organization is currently accepting new business and for which similar copayments and deductibles are applied.

(2) The direct payment contract offered pursuant to division (A) of this section may include a coordination of benefits provision as approved by the superintendent.

(3) For purposes of division (B) of this section "federally eligible individual" means an eligible individual as defined in 45 C.F.R. 148.103.

(C) The option for conversion shall be available:

(1) Upon the death of the subscriber, to the surviving spouse with respect to such of the spouse and dependents as are then covered by the group contract;

(2) To a child solely with respect to the child upon the child's attaining the limiting age of coverage under the group contract while covered as a dependent under the contract;

(3) Upon the divorce, dissolution, or annulment of the marriage of the subscriber, to the divorced spouse, or, in the event of annulment, to the former spouse of the subscriber.

(D) No health insuring corporation shall use age as the basis for refusing to renew a converted contract.

(E) Written notice of the conversion option provided by this section shall be given to the subscriber by the health insuring corporation by mail. The notice shall be sent to the subscriber's address in the records of the employer upon receipt of notice from the employer of the event giving rise to the conversion option. If the subscriber has not received notice of the conversion privilege at least fifteen days prior to the expiration of the thirty-day conversion period, then the subscriber shall have an additional period within which to exercise the privilege. This additional period shall expire fifteen days after the subscriber receives notice, but in no event shall the period extend beyond sixty days after the expiration of the thirty-day conversion period.

(F) This section does not apply to any group contract offering only supplemental health care services or specialty health care services.

Sec. 1751.60. (A) Except as provided for in divisions (E) and (F) of this section, every provider or health care facility that contracts with a health

insuring corporation to provide health care services to the health insuring corporation's enrollees or subscribers shall seek compensation for covered services solely from the health insuring corporation and not, under any circumstances, from the enrollees or subscribers, except for approved copayments and deductibles.

(B) No subscriber or enrollee of a health insuring corporation is liable to any contracting provider or health care facility for the cost of any covered health care services, if the subscriber or enrollee has acted in accordance with the evidence of coverage.

(C) Except as provided for in divisions (E) and (F) of this section, every contract between a health insuring corporation and provider or health care facility shall contain a provision approved by the superintendent of insurance requiring the provider or health care facility to seek compensation solely from the health insuring corporation and not, under any circumstances, from the subscriber or enrollee, except for approved copayments and deductibles.

(D) Nothing in this section shall be construed as preventing a provider or health care facility from billing the enrollee or subscriber of a health insuring corporation for noncovered services.

(E) Upon application by a health insuring corporation and a provider or health care facility, the superintendent may waive the requirements of divisions (A) and (C) of this section when, in addition to the reserve requirements contained in section 1751.28 of the Revised Code, the health insuring corporation provides sufficient assurances to the superintendent that the provider or health care facility has been provided with financial guarantees. No waiver of the requirements of divisions (A) and (C) of this section is effective as to enrollees or subscribers for whom the health insuring corporation is compensated under a provider agreement or risk contract entered into pursuant to Chapter 5111. or 5115. of the Revised Code.

(F) The requirements of divisions (A) to (C) of this section apply only to health care services provided to an enrollee or subscriber prior to the effective date of a termination of a contract between the health insuring corporation and the provider or health care facility.

Sec. 2101.16. (A) The fees enumerated in this division shall be charged and collected, if possible, by the probate judge and shall be in full for all services rendered in the respective proceedings:

(1) Account, in addition to advertising charges	\$12.00
Waivers and proof of notice of hearing on account, per	
page, minimum one dollar	\$ 1.00

(2) Account of distribution, in addition to advertising charges	\$ 7.00
(3) Adoption of child, petition for	\$50.00
(4) Alter or cancel contract for sale or purchase of real estate, petition to	\$20.00
(5) Application and order not otherwise provided for in this section or by rule adopted pursuant to division (E) of this section	\$ 5.00
(6) Appropriation suit, per day, hearing in	\$20.00
(7) Birth, application for registration of	\$ 7.00
(8) Birth record, application to correct	\$ 5.00
(9) Bond, application for new or additional	\$ 5.00
(10) Bond, application for release of surety or reduction of	\$ 5.00
(11) Bond, receipt for securities deposited in lieu of	\$ 5.00
(12) Certified copy of journal entry, record, or proceeding, per page, minimum fee one dollar	\$ 1.00
(13) Citation and issuing citation, application for	\$ 5.00
(14) Change of name, petition for	\$20.00
(15) Claim, application of administrator or executor for allowance of administrator's or executor's own	\$10.00
(16) Claim, application to compromise or settle	\$10.00
(17) Claim, authority to present	\$10.00
(18) Commissioner, appointment of	\$ 5.00
(19) Compensation for extraordinary services and attorney's fees for fiduciary, application for	\$ 5.00
(20) Competency, application to procure adjudication of ...	\$20.00
(21) Complete contract, application to	\$10.00
(22) Concealment of assets, citation for	\$10.00
(23) Construction of will, petition for	\$20.00
(24) Continue decedent's business, application to	\$10.00
Monthly reports of operation	\$ 5.00
(25) Declaratory judgment, petition for	\$20.00
(26) Deposit of will	\$ 5.00
(27) Designation of heir	\$20.00
(28) Distribution in kind, application, assent, and order for	\$ 5.00
(29) Distribution under section 2109.36 of the Revised Code, application for an order of	\$ 7.00
(30) Docketing and indexing proceedings, including the	

filing and noting of all necessary documents, maximum fee, fifteen dollars	\$15.00
(31) Exceptions to any proceeding named in this section, contest of appointment or	\$10.00
(32) Election of surviving partner to purchase assets of partnership, proceedings relating to	\$10.00
(33) Election of surviving spouse under will	\$ 5.00
(34) Fiduciary, including an assignee or trustee of an insolvent debtor or any guardian or conservator accountable to the probate court, appointment of	\$35.00
(35) Foreign will, application to record	\$10.00
Record of foreign will, additional, per page	\$ 1.00
(36) Forms when supplied by the probate court, not to exceed	\$10.00
(37) Heirship, petition to determine	\$20.00
(38) Injunction proceedings	\$20.00
(39) Improve real estate, petition to	\$20.00
(40) Inventory with appraisement	\$10.00
(41) Inventory without appraisement	\$ 7.00
(42) Investment or expenditure of funds, application for ..	\$10.00
(43) Invest in real estate, application to	\$10.00
(44) Lease for oil, gas, coal, or other mineral, petition to	\$20.00
(45) Lease or lease and improve real estate, petition to ..	\$20.00
(46) Marriage license	\$10.00
Certified abstract of each marriage	\$ 2.00
(47) Minor or mentally ill person, etc., disposal of estate under ten thousand dollars of	\$10.00
(48) Mortgage or mortgage and repair or improve real estate, petition to	\$20.00
(49) Newly discovered assets, report of	\$ 7.00
(50) Nonresident executor or administrator to bar creditors' claims, proceedings by	\$20.00
(51) Power of attorney or revocation of power, bonding company	\$10.00
(52) Presumption of death, petition to establish	\$20.00
(53) Probating will	\$15.00
Proof of notice to beneficiaries	\$ 5.00
(54) Purchase personal property, application of surviving spouse to	\$10.00

(55) Purchase real estate at appraised value, petition of surviving spouse to	\$20.00
(56) Receipts in addition to advertising charges, application and order to record	\$ 5.00
Record of those receipts, additional, per page	\$ 1.00
(57) Record in excess of fifteen hundred words in any proceeding in the probate court, per page	\$ 1.00
(58) Release of estate by mortgagee or other lienholder ...	\$ 5.00
(59) Relieving an estate from administration under section 2113.03 of the Revised Code or granting an order for a summary release from administration under section 2113.031 of the Revised Code	\$60.00
(60) Removal of fiduciary, application for	\$10.00
(61) Requalification of executor or administrator	\$10.00
(62) Resignation of fiduciary	\$ 5.00
(63) Sale bill, public sale of personal property	\$10.00
(64) Sale of personal property and report, application for	\$10.00
(65) Sale of real estate, petition for	\$25.00
(66) Terminate guardianship, petition to	\$10.00
(67) Transfer of real estate, application, entry, and certificate for	\$ 7.00
(68) Unclaimed money, application to invest	\$ 7.00
(69) Vacate approval of account or order of distribution, motion to	\$10.00
(70) Writ of execution	\$ 5.00
(71) Writ of possession	\$ 5.00
(72) Wrongful death, application and settlement of claim for	\$20.00
(73) Year's allowance, petition to review	\$ 7.00
(74) Guardian's report, filing and review of	\$ 5.00

(B)(1) In relation to an application for the appointment of a guardian or the review of a report of a guardian under section 2111.49 of the Revised Code, the probate court, pursuant to court order or in accordance with a court rule, may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.041 or division (A)(2) of section 2111.49 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that an alleged incompetent or a ward is indigent, the court may

waive the costs, fees, and expenses of an investigation.

(2) In relation to the appointment or functioning of a guardian for a minor or the guardianship of a minor, the probate court may direct that the applicant or the estate pay any or all of the expenses of an investigation conducted pursuant to section 2111.042 of the Revised Code. If the investigation is conducted by a public employee or investigator who is paid by the county, the fees for the investigation shall be paid into the county treasury. If the court finds that the guardian or applicant is indigent, the court may waive the costs, fees, and expenses of an investigation.

(C) Thirty dollars of the thirty-five-dollar fee collected pursuant to division (A)(34) of this section and twenty dollars of the sixty-dollar fee collected pursuant to division (A)(59) of this section shall be deposited by the county treasurer in the indigent guardianship fund created pursuant to section 2111.51 of the Revised Code.

(D) The fees of witnesses, jurors, sheriffs, coroners, and constables for services rendered in the probate court or by order of the probate judge shall be the same as provided for like services in the court of common pleas.

(E) The probate court, by rule, may require an advance deposit for costs, not to exceed one hundred twenty-five dollars, at the time application is made for an appointment as executor or administrator or at the time a will is presented for probate.

(F) The probate court, by rule, shall establish a reasonable fee, not to exceed fifty dollars, for the filing of a petition for the release of information regarding an adopted person's name by birth and the identity of the adopted person's biological parents and biological siblings pursuant to section 3107.41 of the Revised Code, all proceedings relative to the petition, the entry of an order relative to the petition, and all services required to be performed in connection with the petition. The probate court may use a reasonable portion of a fee charged under authority of this division to reimburse any agency, as defined in section 3107.39 of the Revised Code, for any services it renders in performing a task described in section 3107.41 of the Revised Code relative to or in connection with the petition for which the fee was charged.

(G)(1) Thirty dollars of the fifty-dollar fee collected pursuant to division (A)(3) of this section shall be deposited into the "putative father registry fund," which is hereby created in the state treasury. The department of job and family services shall use the money in the fund to fund the department's costs of performing its duties related to the putative father registry established under section 3107.062 of the Revised Code.

(2) If the department determines that money in the putative father

registry fund is more than is needed for its duties related to the putative father registry, the department may use the surplus moneys in the fund as permitted in division (C) of section 2151.3529, division (B) of section 2151.3530, or section 5103.155 of the Revised Code.

Sec. 2113.041. (A) The administrator of the estate recovery program established pursuant to section 5111.11 of the Revised Code may present an affidavit to a financial institution requesting that the financial institution release account proceeds to recover the cost of services correctly provided to a medicaid recipient. The affidavit shall include all of the following information:

(1) The name of the decedent;

(2) The name of any person who gave notice that the decedent was a medicaid recipient and that person's relationship to the decedent;

(3) The name of the financial institution;

(4) The account number;

(5) A description of the claim for estate recovery;

(6) The amount of funds to be recovered.

(B) A financial institution may release account proceeds to the administrator of the estate recovery program if all of the following apply:

(1) The decedent held an account at the financial institution that was in the decedent's name only.

(2) No estate has been, and it is reasonable to assume that no estate will be, opened for the decedent.

(3) The decedent has no outstanding debts known to the administrator of the estate recovery program.

(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received.

(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim.

Sec. 2117.06. (A) All creditors having claims against an estate, including claims arising out of contract, out of tort, on cognovit notes, or on judgments, whether due or not due, secured or unsecured, liquidated or unliquidated, shall present their claims in one of the following manners:

(1) To the executor or administrator in a writing;

(2) To the executor or administrator in a writing, and to the probate

court by filing a copy of the writing with it;

(3) In a writing that is sent by ordinary mail addressed to the decedent and that is actually received by the executor or administrator within the appropriate time specified in division (B) of this section. For purposes of this division, if an executor or administrator is not a natural person, the writing shall be considered as being actually received by the executor or administrator only if the person charged with the primary responsibility of administering the estate of the decedent actually receives the writing within the appropriate time specified in division (B) of this section.

(B) ~~All~~ Except as provided in section 2117.061 of the Revised Code, all claims shall be presented within one year after the death of the decedent, whether or not the estate is released from administration or an executor or administrator is appointed during that one-year period. Every claim presented shall set forth the claimant's address.

(C) ~~A~~ Except as provided in section 2117.061 of the Revised Code, a claim that is not presented within one year after the death of the decedent shall be forever barred as to all parties, including, but not limited to, devisees, legatees, and distributees. No payment shall be made on the claim and no action shall be maintained on the claim, except as otherwise provided in sections 2117.37 to 2117.42 of the Revised Code with reference to contingent claims.

(D) In the absence of any prior demand for allowance, the executor or administrator shall allow or reject all claims, except tax assessment claims, within thirty days after their presentation, provided that failure of the executor or administrator to allow or reject within that time shall not prevent the executor or administrator from doing so after that time and shall not prejudice the rights of any claimant. Upon the allowance of a claim, the executor or the administrator, on demand of the creditor, shall furnish the creditor with a written statement or memorandum of the fact and date of the allowance.

(E) If the executor or administrator has actual knowledge of a pending action commenced against the decedent prior to the decedent's death in a court of record in this state, the executor or administrator shall file a notice of the appointment of the executor or administrator in the pending action within ten days after acquiring that knowledge. If the administrator or executor is not a natural person, actual knowledge of a pending suit against the decedent shall be limited to the actual knowledge of the person charged with the primary responsibility of administering the estate of the decedent. Failure to file the notice within the ten-day period does not extend the claim period established by this section.

(F) This section applies to any person who is required to give written notice to the executor or administrator of a motion or application to revive an action pending against the decedent at the date of the death of the decedent.

(G) Nothing in this section or in section 2117.07 of the Revised Code shall be construed to reduce the time mentioned in section 2125.02, 2305.09, 2305.10, 2305.11, 2305.113, or 2305.12 of the Revised Code, provided that no portion of any recovery on a claim brought pursuant to any of those sections shall come from the assets of an estate unless the claim has been presented against the estate in accordance with Chapter 2117. of the Revised Code.

(H) Any person whose claim has been presented and has not been rejected after presentment is a creditor as that term is used in Chapters 2113. to 2125. of the Revised Code. Claims that are contingent need not be presented except as provided in sections 2117.37 to 2117.42 of the Revised Code, but, whether presented pursuant to those sections or this section, contingent claims may be presented in any of the manners described in division (A) of this section.

(I) If a creditor presents a claim against an estate in accordance with division (A)(2) of this section, the probate court shall not close the administration of the estate until that claim is allowed or rejected.

(J) The probate court shall not require an executor or administrator to make and return into the court a schedule of claims against the estate.

(K) If the executor or administrator makes a distribution of the assets of the estate prior to the expiration of the time for the filing of claims as set forth in this section, the executor or administrator shall provide notice on the account delivered to each distributee that the distributee may be liable to the estate up to the value of the distribution and may be required to return all or any part of the value of the distribution if a valid claim is subsequently made against the estate within the time permitted under this section.

Sec. 2117.061. (A) As used in this section, "person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate.

(B) If the decedent was fifty-five years of age or older at the time of death, the person responsible for an estate shall determine whether the decedent was a recipient of medical assistance under Chapter 5111. of the Revised Code. If the decedent was a recipient, the person responsible for the estate shall give written notice to that effect to the administrator of the estate recovery program instituted under section 5111.11 of the Revised Code not

later than thirty days after the occurrence of any of the following:

- (1) The granting of letters testamentary;
- (2) The administration of the estate;
- (3) The filing of an application for release from administration or summary release from administration.

(C) The person responsible for an estate shall mark the appropriate box on the appropriate probate form to indicate compliance with the requirements of division (B) of this section.

(D) The estate recovery program administrator shall present a claim for estate recovery to the person responsible for the estate or the person's legal representative not later than ninety days after the date on which notice is received under division (B) of this section or one year after the decedent's death, whichever is later.

Sec. 2117.25. (A) Every executor or administrator shall proceed with diligence to pay the debts of the decedent and shall apply the assets in the following order:

- (1) Costs and expenses of administration;
- (2) An amount, not exceeding two thousand dollars, for funeral expenses that are included in the bill of a funeral director, funeral expenses other than those in the bill of a funeral director that are approved by the probate court, and an amount, not exceeding two thousand dollars, for burial and cemetery expenses, including that portion of the funeral director's bill allocated to cemetery expenses that have been paid to the cemetery by the funeral director.

For purposes of this division, burial and cemetery expenses shall be limited to the following:

- (a) The purchase of a place of interment;
- (b) Monuments or other markers;
- (c) The outer burial container;
- (d) The cost of opening and closing the place of interment;
- (e) The urn.
- (3) The allowance for support made to the surviving spouse, minor children, or both under section 2106.13 of the Revised Code;
- (4) Debts entitled to a preference under the laws of the United States;
- (5) Expenses of the last sickness of the decedent;
- (6) If the total bill of a funeral director for funeral expenses exceeds two thousand dollars, then, in addition to the amount described in division (A)(2) of this section, an amount, not exceeding one thousand dollars, for funeral expenses that are included in the bill and that exceed two thousand dollars;
- (7) Personal property taxes, claims made under the estate recovery

program instituted pursuant to section 5111.11 of the Revised Code, and obligations for which the decedent was personally liable to the state or any of its subdivisions;

(8) Debts for manual labor performed for the decedent within twelve months preceding the decedent's death, not exceeding three hundred dollars to any one person;

(9) Other debts for which claims have been presented and finally allowed.

(B) The part of the bill of a funeral director that exceeds the total of three thousand dollars as described in divisions (A)(2) and (6) of this section, and the part of a claim included in division (A)(8) of this section that exceeds three hundred dollars shall be included as a debt under division (A)(9) of this section, depending upon the time when the claim for the additional amount is presented.

(C) Any natural person or fiduciary who pays a claim of any creditor described in division (A) of this section shall be subrogated to the rights of that creditor proportionate to the amount of the payment and shall be entitled to reimbursement for that amount in accordance with the priority of payments set forth in that division.

(D)(1) Chapters 2113. to 2125. of the Revised Code, relating to the manner in which and the time within which claims shall be presented, shall apply to claims set forth in divisions (A)(2), (6), and (8) of this section. Claims for an expense of administration or for the allowance for support need not be presented. The executor or administrator shall pay debts included in divisions (A)(4) and (7) of this section, of which the executor or administrator has knowledge, regardless of presentation.

(2) The giving of written notice to an executor or administrator of a motion or application to revive an action pending against the decedent at the date of death shall be equivalent to the presentation of a claim to the executor or administrator for the purpose of determining the order of payment of any judgment rendered or decree entered in such an action.

(E) No payments shall be made to creditors of one class until all those of the preceding class are fully paid or provided for. If the assets are insufficient to pay all the claims of one class, the creditors of that class shall be paid ratably.

(F) If it appears at any time that the assets have been exhausted in paying prior or preferred charges, allowances, or claims, those payments shall be a bar to an action on any claim not entitled to that priority or preference.

Sec. 2133.01. Unless the context otherwise requires, as used in sections

2133.01 to 2133.15 of the Revised Code:

(A) "Adult" means an individual who is eighteen years of age or older.

(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a declarant or other patient, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declarant" means any adult who has executed a declaration in accordance with section 2133.02 of the Revised Code.

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.

(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.

(H) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(I) "Health care facility" means any of the following:

(1) A hospital;

(2) A hospice care program or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;

(3) A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;

(4) A home health agency and any residential facility where a person is

receiving care under the direction of a home health agency;

(5) An intermediate care facility for the mentally retarded.

(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.

(K) "Home health agency" has the same meaning as in section ~~3701.88~~ 3701.881 of the Revised Code.

(L) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 2108.01, 3701.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a qualified patient or other patient, will serve principally to prolong the process of dying.

(R) "Nurse" means a person who is licensed to practice nursing as a registered nurse or to practice practical nursing as a licensed practical nurse pursuant to Chapter 4723. of the Revised Code.

(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(T) "Nutrition" means sustenance that is artificially or technologically administered.

(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.

(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2151.352. ~~A~~ Except as otherwise provided in this section, a child, or the child's parents; or custodian, or any other person in loco parentis of such the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code and if. If, as an indigent person, any such person a party is unable to employ counsel, the party is entitled to have counsel provided for the person pursuant to Chapter 120. of the Revised Code. If a party appears without counsel, the court shall ascertain whether the party knows of the party's right to counsel and of the party's right to be provided with counsel if the party is an indigent person. The court may continue the case to enable a party to obtain counsel or to be represented by the county public defender or the joint county public defender and shall provide counsel upon request pursuant to Chapter 120. of the Revised Code. Counsel must be provided for

a child not represented by the child's parent, guardian, or custodian. If the interests of two or more ~~such~~ parties conflict, separate counsel shall be provided for each of them.

This section does not confer the right to court-appointed counsel in civil actions arising under division (A)(2), (D), or (F) of section 2151.23 or division (C) of section 3111.13 of the Revised Code.

Section 2935.14 of the Revised Code applies to any child taken into custody. The parents, custodian, or guardian of ~~such~~ a child taken into custody, and any attorney at law representing them or the child, shall be entitled to visit ~~such~~ the child at any reasonable time, be present at any hearing involving the child, and be given reasonable notice of ~~such~~ the hearing.

Any report or part ~~thereof~~ of a report concerning ~~such~~ the child, which is used in the hearing and is pertinent ~~thereto~~ to the hearing, shall for good cause shown be made available to any attorney at law representing ~~such~~ the child and to any attorney at law representing the parents, custodian, or guardian of ~~such~~ the child, upon written request prior to any hearing involving ~~such~~ the child.

Sec. 2151.3529. (A) The director of job and family services shall promulgate forms designed to gather pertinent medical information concerning a deserted child and the child's parents. The forms shall clearly and unambiguously state on each page that the information requested is to facilitate medical care for the child, that the forms may be fully or partially completed or left blank, that completing the forms or parts of the forms is completely voluntary, and that no adverse legal consequence will result from failure to complete any part of the forms.

(B) The director shall promulgate written materials to be given to the parents of a child delivered pursuant to section 2151.3516 of the Revised Code. The materials shall describe services available to assist parents and newborns and shall include information directly relevant to situations that might cause parents to desert a child and information on the procedures for a person to follow in order to reunite with a child the person delivered under section 2151.3516 of the Revised Code, including notice that the person will be required to submit to a DNA test, at that person's expense, to prove that the person is the parent of the child.

(C) If the department of job and family services determines that money in the putative father registry fund created under section 2101.16 of the Revised Code is more than is needed for its duties related to the putative father registry, the department may use surplus moneys in the fund for costs related to the development and publication of forms and materials

promulgated pursuant to divisions (A) and (B) of this section.

Sec. 2151.3530. (A) The director of job and family services shall distribute the medical information forms and written materials promulgated under section 2151.3529 of the Revised Code to entities permitted to receive a deserted child, to public children services agencies, and to other public or private agencies that, in the discretion of the director, are best able to disseminate the forms and materials to the persons who are most in need of the forms and materials.

(B) If the department of job and family services determines that money in the putative father registry fund created under section 2101.16 of the Revised Code is more than is needed to perform its duties related to the putative father registry, the department may use surplus moneys in the fund for costs related to the distribution of forms and materials pursuant to this section.

Sec. 2151.83. (A) A public children services agency or private child placing agency, on the request of a young adult, shall enter into a jointly prepared written agreement with the young adult that obligates the agency to ensure that independent living services are provided to the young adult and sets forth the responsibilities of the young adult regarding the services. The agreement shall be developed based on the young adult's strengths, needs, and circumstances ~~and the availability of funds provided pursuant to section 2151.84 of the Revised Code.~~ The agreement shall be designed to promote the young adult's successful transition to independent adult living and emotional and economic self-sufficiency.

(B) If the young adult appears to be eligible for services from one or more of the following entities, the agency must contact the appropriate entity to determine eligibility:

(1) An entity, other than the agency, that is represented on a county family and children first council established pursuant to section 121.37 of the Revised Code. If the entity is a board of alcohol, drug addiction, and mental health services, an alcohol and drug addiction services board, or a community mental health board, the agency shall contact the provider of alcohol, drug addiction, or mental health services that has been designated by the board to determine the young adult's eligibility for services.

(2) The rehabilitation services commission;

(3) A metropolitan housing authority established pursuant to section 3735.27 of the Revised Code.

If an entity described in this division determines that the young adult qualifies for services from the entity, that entity, the young adult, and the agency to which the young adult made the request for independent living

services shall enter into a written addendum to the jointly prepared agreement entered into under division (A) of this section. The addendum shall indicate how services under the agreement and addendum are to be coordinated and allocate the service responsibilities among the entities and agency that signed the addendum.

Sec. 2151.84. The department of job and family services shall establish model agreements that may be used by public children services agencies and private child placing agencies required to provide services under an agreement with a young adult pursuant to section 2151.83 of the Revised Code. The model agreements shall include provisions describing the specific independent living services to be provided ~~to the extent funds are provided pursuant to this section~~, the duration of the services and the agreement, the duties and responsibilities of each party under the agreement, and grievance procedures regarding disputes that arise regarding the agreement or services provided under it.

~~To facilitate the provision of independent living services, the department shall provide funds to meet the requirement of state matching funds needed to qualify for federal funds under the "Foster Care Independence Act of 1999," 113 Stat. 1822 (1999), 42 U.S.C. 677, as amended. The department shall seek controlling board approval of any fund transfers necessary to meet this requirement.~~

Sec. 2152.19. (A) If a child is adjudicated a delinquent child, the court may make any of the following orders of disposition, in addition to any other disposition authorized or required by this chapter:

(1) Any order that is authorized by section 2151.353 of the Revised Code for the care and protection of an abused, neglected, or dependent child;

(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2152.41 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under section 2151.65 of the Revised Code;

(3) Place the child in a detention facility or district detention facility operated under section 2152.41 of the Revised Code, for up to ninety days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes. As a condition of community control in every case and in addition to any other condition that it imposes upon the child, the court shall require the child to abide by the law during

the period of community control. As referred to in this division, community control includes, but is not limited to, the following sanctions and conditions:

(a) A period of basic probation supervision in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(b) A period of intensive probation supervision in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required each day to report to and leave a center or another approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(d) A period of community service of up to five hundred hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to two hundred hours for an act that would be a misdemeanor of the second, third, or fourth degree if committed by an adult, or up to thirty hours for an act that would be a minor misdemeanor if committed by an adult;

(e) A requirement that the child obtain a high school diploma, a certificate of high school equivalence, vocational training, or employment;

(f) A period of drug and alcohol use monitoring;

(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(i) A requirement that the child serve monitored time;

(j) A period of house arrest with or without electronic monitoring;

(k) A period of electronic monitoring without house arrest or electronically monitored house arrest that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act.

A period of electronically monitored house arrest imposed under this division shall not extend beyond the child's twenty-first birthday. If a court imposes a period of electronically monitored house arrest upon a child under this division, it shall require the child: to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified

electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house arrest except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that can determine the child's location at designated times; to report periodically to a person designated by the court; and to enter into a written contract with the court agreeing to comply with all requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house arrest, and agreeing to waive the right to receive credit for any time served on electronically monitored house arrest toward the period of any other dispositional order imposed upon the child if the child violates any of the requirements of the dispositional order of electronically monitored house arrest. The court also may impose other reasonable requirements upon the child.

Unless ordered by the court, a child shall not receive credit for any time served on electronically monitored house arrest toward any other dispositional order imposed upon the child for the act for which was imposed the dispositional order of electronically monitored house arrest.

(1) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child or a suspension of the registration of all motor vehicles registered in the name of the child. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or twelve or more school days in a school year;

(7)(a) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being a habitual truant, do either or both of the following:

(i) Require the child to participate in a truancy prevention mediation program;

(ii) Make any order of disposition as authorized by this section, except that the court shall not commit the child to a facility described in division

(A)(2) or (3) of this section unless the court determines that the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code or division (A)(6) of this section.

(b) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, do either or both of the following:

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program;

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(8) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) A community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter.

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit:

(1) The child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, with the suspension and denial being in accordance with division (E)(1)(a), (c), (d), or (e) of section 2923.122 of the Revised Code.

(2) The child is adjudicated a delinquent child for committing an act that if committed by an adult would be a drug abuse offense or for violating division (B) of section 2917.11 of the Revised Code, with the suspension continuing until the child attends and satisfactorily completes a drug abuse

or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending the program, the court shall retain any temporary instruction permit, probationary driver's license, or driver's license issued to the child, and the court shall return the permit or license when the child satisfactorily completes the program.

(C) The court may establish a victim-offender mediation program in which victims and their offenders meet to discuss the offense and suggest possible restitution. If the court obtains the assent of the victim of the delinquent act committed by the child, the court may require the child to participate in the program.

(D)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created a risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a public record. However, the court may furnish copies of the statement to the department of youth services if the delinquent child is committed to the department or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to this section shall be kept confidential and is not a public record. If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the court shall make available to the officer, for use in preparing the report, a copy of any victim impact statement regarding that person. The copies of a

victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to this division shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this chapter.

The copy of a victim impact statement that is made available pursuant to this division to an officer preparing a criminal presentence investigation report shall be returned to the court by the officer immediately following its use in preparing the report.

(4) The department of youth services shall work with local probation departments and victim assistance programs to develop a standard victim impact statement.

(E) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, in addition to any order of disposition it makes under this section, the court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication of the child as an unruly or delinquent child for being an habitual or chronic truant may result in a criminal charge against the parent, guardian, or other person having care of the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

(F)(1) During the period of a delinquent child's community control granted under this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court that places a delinquent child on community control under this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of

community control if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court also shall provide the written notice described in division (E)(2) of this section to each parent, guardian, or custodian of the delinquent child who is described in that division.

(2) The court that places a child on community control under this section shall provide the child's parent, guardian, or other custodian with a written notice that informs them that authorized probation officers may conduct searches pursuant to division (E)(1) of this section. The notice shall specifically state that a permissible search might extend to a motor vehicle, another item of tangible or intangible personal property, or a place of residence or other real property in which a notified parent, guardian, or custodian has a right, title, or interest and that the parent, guardian, or custodian expressly or impliedly permits the child to use, occupy, or possess.

(G) If a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to this section and if the delinquent act for which the child is so committed is a sexually oriented offense, the court in the order of disposition shall do one of the following:

(1) Require that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code;

(2) Inform the person, organization, or entity that it is the preferred course of action in this state that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code and encourage the person, organization, or entity to provide that treatment.

Sec. 2301.02. The number of judges of the court of common pleas for each county, the time for the next election of the judges in the several counties, and the beginning of their terms shall be as follows:

(A) In Adams, Ashland, Fayette, and Pike counties, one judge, elected in 1956, term to begin February 9, 1957;

In Brown, Crawford, Defiance, Highland, Holmes, Morgan, Ottawa, and Union counties, one judge, to be elected in 1954, term to begin February 9, 1955;

In Auglaize county, one judge, to be elected in 1956, term to begin January 9, 1957;

In Coshocton, Darke, Fulton, Gallia, Guernsey, Hardin, Jackson, Knox, Logan, Madison, Mercer, Monroe, Morrow, Paulding, Vinton, and Wyandot counties, one judge, to be elected in 1956, term to begin January 1, 1957;

In Carroll, Champaign, Clinton, Hocking, Meigs, Pickaway, Preble,

Shelby, Van Wert, and Williams counties, one judge, to be elected in 1952, term to begin January 1, 1953;

In Harrison and Noble counties, one judge, to be elected in 1954, term to begin April 18, 1955;

In Henry and Putnam counties, one judge, to be elected in 1956, term to begin May 9, 1957;

In Huron county, one judge, to be elected in 1952, term to begin May 14, 1953;

In Perry county, one judge, to be elected in 1954, term to begin July 6, 1956;

In Sandusky county, two judges, one to be elected in 1954, term to begin February 10, 1955, and one to be elected in 1978, term to begin January 1, 1979;

(B) In Allen county, three judges, one to be elected in 1956, term to begin February 9, 1957, the second to be elected in 1958, term to begin January 1, 1959, and the third to be elected in 1992, term to begin January 1, 1993;

In Ashtabula county, three judges, one to be elected in 1954, term to begin February 9, 1955, one to be elected in 1960, term to begin January 1, 1961, and one to be elected in 1978, term to begin January 2, 1979;

In Athens county, two judges, one to be elected in 1954, term to begin February 9, 1955, and one to be elected in 1990, term to begin July 1, 1991;

In Erie county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1970, term to begin January 2, 1971;

In Fairfield county, three judges, one to be elected in 1954, term to begin February 9, 1955, the second to be elected in 1970, term to begin January 1, 1971, and the third to be elected in 1994, term to begin January 2, 1995;

In Geauga county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1976, term to begin January 6, 1977;

In Greene county, four judges, one to be elected in 1956, term to begin February 9, 1957, the second to be elected in 1960, term to begin January 1, 1961, the third to be elected in 1978, term to begin January 2, 1979, and the fourth to be elected in 1994, term to begin January 1, 1995;

In Hancock county, two judges, one to be elected in 1952, term to begin January 1, 1953, and the second to be elected in 1978, term to begin January 1, 1979;

In Lawrence county, two judges, one to be elected in 1954, term to

begin February 9, 1955, and the second to be elected in 1976, term to begin January 1, 1977;

In Marion county, three judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1976, term to begin January 2, 1977, and the third to be elected in 1998, term to begin February 9, 1999;

In Medina county, three judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1966, term to begin January 1, 1967, and the third to be elected in 1994, term to begin January 1, 1995;

In Miami county, two judges, one to be elected in 1954, term to begin February 9, 1955, and one to be elected in 1970, term to begin on January 1, 1971;

In Muskingum county, three judges, one to be elected in 1968, term to begin August 9, 1969, one to be elected in 1978, term to begin January 1, 1979, and one to be elected in 2002, term to begin January 2, 2003;

In Portage county, three judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1960, term to begin January 1, 1961, and the third to be elected in 1986, term to begin January 2, 1987;

In Ross county, two judges, one to be elected in 1956, term to begin February 9, 1957, and the second to be elected in 1976, term to begin January 1, 1977;

In Scioto county, three judges, one to be elected in 1954, term to begin February 10, 1955, the second to be elected in 1960, term to begin January 1, 1961, and the third to be elected in 1994, term to begin January 2, 1995;

In Seneca county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1986, term to begin January 2, 1987;

In Warren county, three judges, one to be elected in 1954, term to begin February 9, 1955, the second to be elected in 1970, term to begin January 1, 1971, and the third to be elected in 1986, term to begin January 1, 1987;

In Washington county, two judges, one to be elected in 1952, term to begin January 1, 1953, and one to be elected in 1986, term to begin January 1, 1987;

In Wood county, three judges, one to be elected in 1968, term beginning January 1, 1969, the second to be elected in 1970, term to begin January 2, 1971, and the third to be elected in 1990, term to begin January 1, 1991;

In Belmont and Jefferson counties, two judges, to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively;

In Clark county, four judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1956, term to begin January 2, 1957, the third to be elected in 1986, term to begin January 3, 1987, and the

fourth to be elected in 1994, term to begin January 2, 1995.

In Clermont county, four judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1964, term to begin January 1, 1965, the third to be elected in 1982, term to begin January 2, 1983, and the fourth to be elected in 1986, term to begin January 2, 1987;

In Columbiana county, two judges, one to be elected in 1952, term to begin January 1, 1953, and the second to be elected in 1956, term to begin January 1, 1957;

In Delaware county, two judges, one to be elected in 1990, term to begin February 9, 1991, the second to be elected in 1994, term to begin January 1, 1995;

In Lake county, six judges, one to be elected in 1958, term to begin January 1, 1959, the second to be elected in 1960, term to begin January 2, 1961, the third to be elected in 1964, term to begin January 3, 1965, the fourth and fifth to be elected in 1978, terms to begin January 4, 1979, and January 5, 1979, respectively, and the sixth to be elected in 2000, term to begin January 6, 2001;

In Licking county, three judges, one to be elected in 1954, term to begin February 9, 1955, one to be elected in 1964, term to begin January 1, 1965, and one to be elected in 1990, term to begin January 1, 1991;

In Lorain county, eight judges, two to be elected in 1952, terms to begin January 1, 1953, and January 2, 1953, respectively, one to be elected in 1958, term to begin January 3, 1959, one to be elected in 1968, term to begin January 1, 1969, two to be elected in 1988, terms to begin January 4, 1989, and January 5, 1989, respectively, and two to be elected in 1998, terms to begin January 2, 1999, and January 3, 1999, respectively;

In Butler county, ten judges, one to be elected in 1956, term to begin January 1, 1957; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; one to be elected in 1968, term to begin January 2, 1969; one to be elected in 1986, term to begin January 3, 1987; two to be elected in 1988, terms to begin January 1, 1989, and January 2, 1989, respectively; one to be elected in 1992, term to begin January 4, 1993; and two to be elected in 2002, terms to begin January 2, 2003, and January 3, 2003, respectively;

In Richland county, ~~three~~ four judges, one to be elected in 1956, term to begin January 1, 1957, the second to be elected in 1960, term to begin February 9, 1961, ~~and~~ the third to be elected in 1968, term to begin January 2, 1969, and the fourth to be elected in 2004, term to begin January 3, 2005;

In Tuscarawas county, two judges, one to be elected in 1956, term to begin January 1, 1957, and the second to be elected in 1960, term to begin

January 2, 1961;

In Wayne county, two judges, one to be elected in 1956, term beginning January 1, 1957, and one to be elected in 1968, term to begin January 2, 1969;

In Trumbull county, six judges, one to be elected in 1952, term to begin January 1, 1953, the second to be elected in 1954, term to begin January 1, 1955, the third to be elected in 1956, term to begin January 1, 1957, the fourth to be elected in 1964, term to begin January 1, 1965, the fifth to be elected in 1976, term to begin January 2, 1977, and the sixth to be elected in 1994, term to begin January 3, 1995;

(C) In Cuyahoga county, thirty-nine judges; eight to be elected in 1954, terms to begin on successive days beginning from January 1, 1955, to January 7, 1955, and February 9, 1955, respectively; eight to be elected in 1956, terms to begin on successive days beginning from January 1, 1957, to January 8, 1957; three to be elected in 1952, terms to begin from January 1, 1953, to January 3, 1953; two to be elected in 1960, terms to begin on January 8, 1961, and January 9, 1961, respectively; two to be elected in 1964, terms to begin January 4, 1965, and January 5, 1965, respectively; one to be elected in 1966, term to begin on January 10, 1967; four to be elected in 1968, terms to begin on successive days beginning from January 9, 1969, to January 12, 1969; two to be elected in 1974, terms to begin on January 18, 1975, and January 19, 1975, respectively; five to be elected in 1976, terms to begin on successive days beginning January 6, 1977, to January 10, 1977; two to be elected in 1982, terms to begin January 11, 1983, and January 12, 1983, respectively; and two to be elected in 1986, terms to begin January 13, 1987, and January 14, 1987, respectively;

In Franklin county, twenty-one judges; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; four to be elected in 1956, terms to begin January 1, 1957, to January 4, 1957; four to be elected in 1958, terms to begin January 1, 1959, to January 4, 1959; three to be elected in 1968, terms to begin January 5, 1969, to January 7, 1969; three to be elected in 1976, terms to begin on successive days beginning January 5, 1977, to January 7, 1977; one to be elected in 1982, term to begin January 8, 1983; one to be elected in 1986, term to begin January 9, 1987; two to be elected in 1990, terms to begin July 1, 1991, and July 2, 1991, respectively; and one to be elected in 1996, term to begin January 2, 1997;

In Hamilton county, twenty-one judges; eight to be elected in 1966, terms to begin January 1, 1967, January 2, 1967, and from February 9, 1967, to February 14, 1967, respectively; five to be elected in 1956, terms to begin from January 1, 1957, to January 5, 1957; one to be elected in 1964, term to

begin January 1, 1965; one to be elected in 1974, term to begin January 15, 1975; one to be elected in 1980, term to begin January 16, 1981; two to be elected at large in the general election in 1982, terms to begin April 1, 1983; one to be elected in 1990, term to begin July 1, 1991; and two to be elected in 1996, terms to begin January 3, 1997, and January 4, 1997, respectively;

In Lucas county, fourteen judges; two to be elected in 1954, terms to begin January 1, 1955, and February 9, 1955, respectively; two to be elected in 1956, terms to begin January 1, 1957, and October 29, 1957, respectively; two to be elected in 1952, terms to begin January 1, 1953, and January 2, 1953, respectively; one to be elected in 1964, term to begin January 3, 1965; one to be elected in 1968, term to begin January 4, 1969; two to be elected in 1976, terms to begin January 4, 1977, and January 5, 1977, respectively; one to be elected in 1982, term to begin January 6, 1983; one to be elected in 1988, term to begin January 7, 1989; one to be elected in 1990, term to begin January 2, 1991; and one to be elected in 1992, term to begin January 2, 1993;

In Mahoning county, seven judges; three to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, and February 9, 1955, respectively; one to be elected in 1956, term to begin January 1, 1957; one to be elected in 1952, term to begin January 1, 1953; one to be elected in 1968, term to begin January 2, 1969; and one to be elected in 1990, term to begin July 1, 1991;

In Montgomery county, fifteen judges; three to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, and January 3, 1955, respectively; four to be elected in 1952, terms to begin January 1, 1953, January 2, 1953, July 1, 1953, July 2, 1953, respectively; one to be elected in 1964, term to begin January 3, 1965; one to be elected in 1968, term to begin January 3, 1969; three to be elected in 1976, terms to begin on successive days beginning January 4, 1977, to January 6, 1977; two to be elected in 1990, terms to begin July 1, 1991, and July 2, 1991, respectively; and one to be elected in 1992, term to begin January 1, 1993.

In Stark county, eight judges; one to be elected in 1958, term to begin on January 2, 1959; two to be elected in 1954, terms to begin on January 1, 1955, and February 9, 1955, respectively; two to be elected in 1952, terms to begin January 1, 1953, and April 16, 1953, respectively; one to be elected in 1966, term to begin on January 4, 1967; and two to be elected in 1992, terms to begin January 1, 1993, and January 2, 1993, respectively;

In Summit county, eleven judges; four to be elected in 1954, terms to begin January 1, 1955, January 2, 1955, January 3, 1955, and February 9, 1955, respectively; three to be elected in 1958, terms to begin January 1,

1959, January 2, 1959, and May 17, 1959, respectively; one to be elected in 1966, term to begin January 4, 1967; one to be elected in 1968, term to begin January 5, 1969; one to be elected in 1990, term to begin May 1, 1991; and one to be elected in 1992, term to begin January 6, 1993.

Notwithstanding the foregoing provisions, in any county having two or more judges of the court of common pleas, in which more than one-third of the judges plus one were previously elected at the same election, if the office of one of those judges so elected becomes vacant more than forty days prior to the second general election preceding the expiration of that judge's term, the office that that judge had filled shall be abolished as of the date of the next general election, and a new office of judge of the court of common pleas shall be created. The judge who is to fill that new office shall be elected for a six-year term at the next general election, and the term of that judge shall commence on the first day of the year following that general election, on which day no other judge's term begins, so that the number of judges that the county shall elect shall not be reduced.

Judges of the probate division of the court of common pleas are judges of the court of common pleas but shall be elected pursuant to sections 2101.02 and 2101.021 of the Revised Code, except in Adams, Harrison, Henry, Morgan, Morrow, Noble, and Wyandot counties in which the judge of the court of common pleas elected pursuant to this section also shall serve as judge of the probate division.

Sec. 2301.03. (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, and January 2, 1997, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Franklin county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them. In addition to the judge's regular duties, the judge who is senior in point of service shall serve on the children services board and the county advisory board and shall be the administrator of the domestic relations division and its subdivisions and departments.

(B) In Hamilton county:

(1) The judge of the court of common pleas, whose term begins on January 1, 1957, and successors, and the judge of the court of common

pleas, whose term begins on February 14, 1967, and successors, shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdiction conferred by those chapters.

(2) The judges of the court of common pleas whose terms begin on January 5, 1957, January 16, 1981, and July 1, 1991, and successors, shall be elected and designated as judges of the court of common pleas, division of domestic relations, and shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. On or after the first day of July and before the first day of August of 1991 and each year thereafter, a majority of the judges of the division of domestic relations shall elect one of the judges of the division as administrative judge of that division. If a majority of the judges of the division of domestic relations are unable for any reason to elect an administrative judge for the division before the first day of August, a majority of the judges of the Hamilton county court of common pleas, as soon as possible after that date, shall elect one of the judges of the division of domestic relations as administrative judge of that division. The term of the administrative judge shall begin on the earlier of the first day of August of the year in which the administrative judge is elected or the date on which the administrative judge is elected by a majority of the judges of the Hamilton county court of common pleas and shall terminate on the date on which the administrative judge's successor is elected in the following year.

In addition to the judge's regular duties, the administrative judge of the division of domestic relations shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary by the judges in the discharge of their various duties.

The administrative judge of the division of domestic relations also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division, and shall fix the duties of its personnel. The duties of the personnel, in addition to those provided for in other sections of the Revised Code, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

The board of county commissioners shall appropriate the sum of money

each year as will meet all the administrative expenses of the division of domestic relations, including reasonable expenses of the domestic relations judges and the division counselors and other employees designated to conduct the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, conciliation and counseling, and all matters relating to those cases and counseling, and the expenses involved in the attendance of division personnel at domestic relations and welfare conferences designated by the division, and the further sum each year as will provide for the adequate operation of the division of domestic relations.

The compensation and expenses of all employees and the salary and expenses of the judges shall be paid by the county treasurer from the money appropriated for the operation of the division, upon the warrant of the county auditor, certified to by the administrative judge of the division of domestic relations.

The summonses, warrants, citations, subpoenas, and other writs of the division may issue to a bailiff, constable, or staff investigator of the division or to the sheriff of any county or any marshal, constable, or police officer, and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply insofar as they are applicable. When a summons, warrant, citation, subpoena, or other writ is issued to an officer, other than a bailiff, constable, or staff investigator of the division, the expense of serving it shall be assessed as a part of the costs in the case involved.

(3) The judge of the court of common pleas of Hamilton county whose term begins on January 3, 1997, and the successor to that judge whose term begins on January 3, 2003, shall each be elected and designated for one term only as the drug court judge of the court of common pleas of Hamilton county. The successors to the judge whose term begins on January 3, 2003, shall be elected and designated as judges of the general division of the court of common pleas of Hamilton county and shall not have the authority granted by division (B)(3) of this section. The drug court judge may accept or reject any case referred to the drug court judge under division (B)(3) of this section. After the drug court judge accepts a referred case, the drug court judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer to the drug court judge any case, and any companion cases, the judge

determines meet the criteria described under divisions (B)(3)(a) and (b) of this section. If the drug court judge accepts referral of a referred case, the case, and any companion cases, shall be transferred to the drug court judge. A judge may refer a case meeting the criteria described in divisions (B)(3)(a) and (b) of this section that involves a violation of a term of probation to the drug court judge, and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B)(3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves a probationable offense or a case in which a mandatory prison term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of

Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.

(C) In Lorain county, the judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. They shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all other personnel of the domestic relations division.

(2) The judges of the court of common pleas whose terms begin on January 5, 1977, and January 2, 1991, and successors shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in

point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judges of the division in the discharge of their various duties.

The judge of the court of common pleas, juvenile division, senior in point of service, also shall designate the title, compensation, expense allowance, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the juvenile division is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in that judge's division necessitates it, the duties shall be performed by the judges of the other of those divisions.

(E) In Mahoning county:

(1) The judge of the court of common pleas whose term began on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, division of domestic relations, and shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary in the discharge of the various duties of the judge's office.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal

separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term began on January 2, 1969, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judge in the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties, or the volume of cases pending in that judge's division necessitates it, that judge's duties shall be performed by another judge of the court of common pleas.

(F) In Montgomery county:

(1) The judges of the court of common pleas whose terms begin on January 2, 1953, and January 4, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. These judges shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the

work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, 2301.18, and 2301.19 of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the court of common pleas, juvenile division, is sick, absent, or unable to perform that judge's duties or the volume of cases pending in that judge's division necessitates it, the duties of that judge may be performed by the judge or judges of the other of those divisions.

(G) In Richland county, ~~the~~:

(1) The judge of the court of common pleas whose term begins on January 1, 1957, and successors, shall have the same qualifications, exercise

the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Richland county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. That judge shall have ~~all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and assigned to that judge and hear~~ all divorce, dissolution of marriage, legal separation, and annulment cases ~~shall be assigned to that judge, except in cases that for some special reason are assigned to some other judge of the court of common pleas that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the division of domestic relations shall have assigned to that judge and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judge of the division of domestic relations shall have assigned to that judge and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.~~

(2) The judge of the court of common pleas whose term begins on January 3, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Richland county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. The judge of the juvenile division shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any magistrates whom the judge considers necessary for the

discharge of the judge's various duties.

The judge of the juvenile division also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling, conciliation, and mediation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(H) In Stark county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1959, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Stark county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases, except cases that are assigned to some other judge of the court of common pleas for some special reason, shall be assigned to the judges.

The judge of the division of domestic relations, second most senior in point of service, shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, and necessary referees required for the judge's respective court.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 of the Revised Code and with the assignment and division of the work of the division and the employment and supervision of all other personnel of the division, including, but not limited to, that judge's necessary referees, but excepting those employees who may be appointed by the judge second most senior in point of service. The senior judge further shall serve in every other position in which the statutes permit or require a juvenile judge to serve.

(I) In Summit county:

(1) The judges of the court of common pleas whose terms begin on January 4, 1967, and January 6, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit

county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them and hear all divorce, dissolution of marriage, legal separation, and annulment cases that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The judge of the division of domestic relations, senior in point of service, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division, including any necessary referees, who are engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases. That judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and of any counseling and conciliation services that are available upon request to all persons, whether or not they are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term begins on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the

juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The juvenile judge shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge senior in point of service shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge senior in point of service also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judges of the court of common pleas whose terms begin on January 3, 1987, and January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, who is senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments. The judge, senior in point of service, shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same

qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

- (a) Full charge of the employment, assignment, and supervision;
- (b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins on January 2, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lake county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judge of the court of common pleas whose term begins on January 4, 1979, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as

other judges of the court of common pleas of Lake county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(N) In Erie county, the judge of the court of common pleas whose term begins on January 2, 1971, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge.

(O) In Greene county:

(1) The judge of the court of common pleas whose term begins on January 1, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county and shall be elected and designated as the judge of the court of common pleas, division

of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.

The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the division. The judge also shall designate the title, compensation, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and the provision of counseling and conciliation services that the division considers necessary and makes available to persons who request the services, whether or not the persons are parties in an action pending in the division. The compensation for the personnel shall be paid from the overall court budget and shall be included in the appropriations for the existing judges of the general division of the court of common pleas.

(2) The judge of the court of common pleas whose term begins on January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county, shall be elected and designated as judge of the court of common pleas, juvenile division, and, on or after January 1, 1995, shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdiction conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(3) If one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the general division necessitates it, the duties of that judge of the general division shall be performed by the judge of the division of domestic relations and the judge of the juvenile division.

(P) In Portage county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Portage county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Q) In Clermont county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Clermont county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to

other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(R) In Warren county, the judge of the court of common pleas, whose term begins January 1, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Warren county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(S) In Licking county, the judge of the court of common pleas, whose term begins January 1, 1991, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Licking county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the

employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(T) In Allen county, the judge of the court of common pleas, whose term begins January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Allen county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation

services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(U) In Medina county, the judge of the court of common pleas whose term begins January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Medina county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings

involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, regardless of whether the persons are parties to an action pending in the division, who request the services. When the judge hears a case to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state or a case that is commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code,

to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, the duties of the personnel of the domestic relations division also include the handling, servicing, and investigation of those types of cases.

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that court.

(X) In Scioto county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same

qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Scioto county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Y) In Auglaize county, the judge of the probate and juvenile divisions of the Auglaize county court of common pleas also shall be the administrative judge of the domestic relations division of the court and shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. The judge shall have all powers as administrator of the domestic relations division and shall have charge of the personnel engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary for the discharge of the judge's various duties.

(Z)(1) In Marion county, the judge of the court of common pleas whose term begins on February 9, 1999, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and

receive the same compensation as the other judges of the court of common pleas of Marion county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Except as provided in division (Z)(2) of this section and notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2003, the judge of the court of common pleas of Marion county whose term begins on February 9, 1999, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Marion county in addition to the powers previously specified in this division, and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (Z)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Marion county or the judge of the probate division of the court of common pleas of Marion county, whichever of those judges is senior in total length of service on the court of common pleas of Marion county, regardless of the division or divisions of service, shall serve as the clerk of the probate division of the court of common pleas of Marion county.

(3) On and after February 9, 2003, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Marion county, as being references to both "the probate division" and "the domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations- juvenile-probate division." On and after February 9, 2003, all references in law to "the clerk of the probate court" shall be construed, with respect to Marion county, as being references

to the judge who is serving pursuant to division (Z)(2) of this section as the clerk of the probate division of the court of common pleas of Marion county.

(AA) In Muskingum county, the judge of the court of common pleas whose term begins on January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Muskingum county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned and hear all divorce, dissolution of marriage, legal separation, and annulment cases and all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge shall be assigned and hear all cases pertaining to paternity, visitation, child support, the allocation of parental rights and responsibilities for the care of children, and the designation for the children of a place of residence and legal custodian, and all post-decree proceedings arising from any case pertaining to any of those matters.

(BB) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2301.58. (A) The director of the community-based correctional facility or district community-based correctional facility may establish a commissary for the facility. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the facility shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the facility's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the facility necessary hygiene articles and writing materials.

(B) If a commissary is established, the director of the community-based correctional facility or district community-based correctional facility shall establish a commissary fund for the facility. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over

and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the facility and to pay salary and benefits for employees of the facility, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The director of the community-based correctional facility or district community-based correctional facility shall adopt rules and regulations for the operation of any commissary fund the director establishes.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.

(5) "Health care worker" means a person other than a health care

professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability ~~assistance~~ medical assistance under Chapter 5115. of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection.

(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.

(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity.

(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a

medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section 3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit shelter or health care facility if, at the time of an alleged injury, death, or loss to person or property, the individuals involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (F) of section 2951.02 of the Revised Code as a condition of probation or other suspension of a term of imprisonment or imposed by a court as a community control sanction pursuant to sections 2929.15 and 2929.17 of the Revised Code.

(b) Performance of an operation.

(c) Delivery of a baby.

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at

common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2329.07. If neither execution on a judgment rendered in a court of record or certified to the clerk of the court of common pleas in the county in which the judgment was rendered is issued, nor a certificate of judgment for obtaining a lien upon lands and tenements is issued and filed, as provided in sections 2329.02 and 2329.04 of the Revised Code, within five years from the date of the judgment or within five years from the date of the issuance of the last execution thereon or the issuance and filing of the last such certificate, whichever is later, then, unless the judgment is in favor of the state, the judgment shall be dormant and shall not operate as a lien upon the estate of the judgment debtor.

If the judgment is in favor of the state, the judgment shall not become dormant and shall not cease to operate as a lien against the estate of the judgment debtor ~~unless neither such~~ provided that either execution on the judgment is issued ~~nor such~~ or a certificate of judgment is issued and filed, as provided in sections 2329.02 and 2329.04 of the Revised Code, within ten years from the date of the judgment ~~or within ten years from the date of the issuance of the last execution thereon or the issuance and filing of the last such certificate, whichever is later.~~

If, in any county other than that in which a judgment was rendered, the judgment has become a lien by reason of the filing, in the office of the clerk of the court of common pleas of that county, of a certificate of the judgment as provided in sections 2329.02 and 2329.04 of the Revised Code, and if no execution is issued for the enforcement of the judgment within that county, or no further certificate of the judgment is filed in that county, within five years ~~or, if the judgment is in favor of the state, within ten years~~ from the

date of issuance of the last execution for the enforcement of the judgment within that county or the date of filing of the last certificate in that county, whichever is the later, then the judgment shall cease to operate as a lien upon lands and tenements of the judgment debtor within that county, unless the judgment is in favor of the state, in which case the judgment shall not become dormant.

~~This section applies to judgments in favor of the state.~~

Sec. 2329.66. (A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:

(1)(a) In the case of a judgment or order regarding money owed for health care services rendered or health care supplies provided to the person or a dependent of the person, one parcel or item of real or personal property that the person or a dependent of the person uses as a residence. Division (A)(1)(a) of this section does not preclude, affect, or invalidate the creation under this chapter of a judgment lien upon the exempted property but only delays the enforcement of the lien until the property is sold or otherwise transferred by the owner or in accordance with other applicable laws to a person or entity other than the surviving spouse or surviving minor children of the judgment debtor. Every person who is domiciled in this state may hold exempt from a judgment lien created pursuant to division (A)(1)(a) of this section the person's interest, not to exceed five thousand dollars, in the exempted property.

(b) In the case of all other judgments and orders, the person's interest, not to exceed five thousand dollars, in one parcel or item of real or personal property that the person or a dependent of the person uses as a residence.

(2) The person's interest, not to exceed one thousand dollars, in one motor vehicle;

(3) The person's interest, not to exceed two hundred dollars in any particular item, in wearing apparel, beds, and bedding, and the person's interest, not to exceed three hundred dollars in each item, in one cooking unit and one refrigerator or other food preservation unit;

(4)(a) The person's interest, not to exceed four hundred dollars, in cash on hand, money due and payable, money to become due within ninety days, tax refunds, and money on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person. Division (A)(4)(a) of this section applies only in bankruptcy proceedings. This exemption may include the portion of personal earnings that is not exempt under division (A)(13) of this section.

(b) Subject to division (A)(4)(d) of this section, the person's interest, not

to exceed two hundred dollars in any particular item, in household furnishings, household goods, appliances, books, animals, crops, musical instruments, firearms, and hunting and fishing equipment, that are held primarily for the personal, family, or household use of the person;

(c) Subject to division (A)(4)(d) of this section, the person's interest in one or more items of jewelry, not to exceed four hundred dollars in one item of jewelry and not to exceed two hundred dollars in every other item of jewelry;

(d) Divisions (A)(4)(b) and (c) of this section do not include items of personal property listed in division (A)(3) of this section.

If the person does not claim an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed two thousand dollars. If the person claims an exemption under division (A)(1) of this section, the total exemption claimed under division (A)(4)(b) of this section shall be added to the total exemption claimed under division (A)(4)(c) of this section, and the total shall not exceed one thousand five hundred dollars.

(5) The person's interest, not to exceed an aggregate of seven hundred fifty dollars, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture;

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;

(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;

(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;

(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;

(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.

(7) The person's professionally prescribed or medically necessary health aids;

(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;

(9) The person's interest in the following:

(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;

(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;

(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;

(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;

(f) Disability financial assistance payments, as exempted by section ~~5115.07~~ 5115.06 of the Revised Code.

(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund;

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the person and any of the person's dependents, except if all the following apply:

(i) The plan or contract was established by or under the auspices of an insider that employed the person at the time the person's rights under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) The plan or contract is not qualified under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

(c) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any individual retirement account, individual retirement annuity, "Roth IRA," or education individual retirement account that provides benefits by reason of illness, disability, death, or age, to the extent that the assets, payments, or benefits described in division (A)(10)(c) of this section are attributable to any of the following:

(i) Contributions of the person that were less than or equal to the applicable limits on deductible contributions to an individual retirement account or individual retirement annuity in the year that the contributions were made, whether or not the person was eligible to deduct the contributions on the person's federal tax return for the year in which the contributions were made;

(ii) Contributions of the person that were less than or equal to the applicable limits on contributions to a Roth IRA or education individual retirement account in the year that the contributions were made;

(iii) Contributions of the person that are within the applicable limits on rollover contributions under subsections 219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(d) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right in the assets held in, or to receive any payment under, any Keogh or "H.R. 10" plan that provides benefits by reason of illness, disability, death, or age, to the extent reasonably necessary for the support of the person and any of the person's dependents.

(11) The person's right to receive spousal support, child support, an allowance, or other maintenance to the extent reasonably necessary for the support of the person and any of the person's dependents;

(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:

(a) An award of reparations under sections 2743.51 to 2743.72 of the Revised Code, to the extent exempted by division (D) of section 2743.66 of the Revised Code;

(b) A payment on account of the wrongful death of an individual of

whom the person was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the person and any of the person's dependents;

(c) Except in cases in which the person who receives the payment is an inmate, as defined in section 2969.21 of the Revised Code, and in which the payment resulted from a civil action or appeal against a government entity or employee, as defined in section 2969.21 of the Revised Code, a payment, not to exceed five thousand dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the person or an individual for whom the person is a dependent;

(d) A payment in compensation for loss of future earnings of the person or an individual of whom the person is or was a dependent, to the extent reasonably necessary for the support of the debtor and any of the debtor's dependents.

(13) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, personal earnings of the person owed to the person for services in an amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum hourly wage; if paid biweekly, sixty times the current federal minimum hourly wage; if paid semimonthly, sixty-five times the current federal minimum hourly wage; or if paid monthly, one hundred thirty times the current federal minimum hourly wage that is in effect at the time the earnings are payable, as prescribed by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to the person.

(14) The person's right in specific partnership property, as exempted by division (B)(3) of section 1775.24 of the Revised Code;

(15) A seal and official register of a notary public, as exempted by section 147.04 of the Revised Code;

(16) The person's interest in a tuition credit or a payment under section 3334.09 of the Revised Code pursuant to a tuition credit contract, as exempted by section 3334.15 of the Revised Code;

(17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended;

(18) The person's interest, not to exceed four hundred dollars, in any property, except that division (A)(18) of this section applies only in bankruptcy proceedings.

(B) As used in this section:

(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code.

(2) "Insider" means:

(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;

(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;

(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.

(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a person or entity

to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;

(f) A managing agent of the person who claims an exemption.

(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.

(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.

(C) For purposes of this section, "interest" shall be determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;

(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.

An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.

Sec. 2335.39. (A) As used in this section:

(1) "Court" means any court of record.

(2) "Eligible party" means a party to an action or appeal involving the state, other than the following:

(a) The state;

(b) An individual whose net worth exceeded one million dollars at the time the action or appeal was filed;

(c) A sole owner of an unincorporated business that had, or a partnership, corporation, association, or organization that had, a net worth exceeding five million dollars at the time the action or appeal was filed, except that an organization that is described in subsection 501(c)(3) and is tax exempt under subsection 501(a) of the Internal Revenue Code shall not be excluded as an eligible party under this division because of its net worth;

(d) A sole owner of an unincorporated business that employed, or a partnership, corporation, association, or organization that employed, more than five hundred persons at the time the action or appeal was filed.

(3) "Fees" means reasonable attorney's fees, in an amount not to exceed seventy-five dollars per hour or a higher hourly fee approved by the court.

(4) "Internal Revenue Code" means the "Internal Revenue Code of 1954," 68A Stat. 3, 26 U.S.C. 1, as amended.

(5) "Prevailing eligible party" means an eligible party that prevails in an action or appeal involving the state.

(6) "State" has the same meaning as in section 2743.01 of the Revised Code.

(B)(1) Except as provided in divisions (B)(2) and (F) of this section, in a civil action, or appeal of a judgment in a civil action, to which the state is a party, or in an appeal of an adjudication order of an agency pursuant to section 119.12 of the Revised Code, the prevailing eligible party is entitled, upon filing a motion in accordance with this division, to compensation for fees incurred by that party in connection with the action or appeal. Compensation, when payable to a prevailing eligible party under this section, is in addition to any other costs and expenses that may be awarded to that party by the court pursuant to law or rule.

A prevailing eligible party that desires an award of compensation for fees shall file a motion requesting the award with the court within thirty days after the court enters final judgment in the action or appeal. The motion shall do all of the following:

- (a) Identify the party;
- (b) Indicate that the party is the prevailing eligible party and is entitled to receive an award of compensation for fees;
- (c) Include a statement that the state's position in initiating the matter in controversy was not substantially justified;
- (d) Indicate the amount sought as an award;
- (e) Itemize all fees sought in the requested award. The itemization shall include a statement from any attorney who represented the prevailing eligible party, that indicates the fees charged, the actual time expended, and the rate at which the fees were calculated.

(2) Upon the filing of a motion under this section, the court shall review the request for the award of compensation for fees and determine whether the position of the state in initiating the matter in controversy was substantially justified, whether special circumstances make an award unjust, and whether the prevailing eligible party engaged in conduct during the course of the action or appeal that unduly and unreasonably protracted the final resolution of the matter in controversy. The court shall issue an order, in writing, on the motion of the prevailing eligible party, which order shall include a statement indicating whether an award has been granted, the findings and conclusions underlying it, the reasons or bases for the findings and conclusions, and, if an award has been granted, its amount. The order shall be included in the record of the action or appeal, and the clerk of the court shall mail a certified copy of it to the state and the prevailing eligible party.

With respect to a motion under this section, the state has the burden of

proving that its position in initiating the matter in controversy was substantially justified, that special circumstances make an award unjust, or that the prevailing eligible party engaged in conduct during the course of the action or appeal that unduly and unreasonably protracted the final resolution of the matter in controversy.

A court considering a motion under this section may deny an award entirely, or reduce the amount of an award that otherwise would be payable, to a prevailing eligible party only as follows:

(a) If the court determines that the state has sustained its burden of proof that its position in initiating the matter in controversy was substantially justified or that special circumstances make an award unjust, the motion shall be denied;

(b) If the court determines that the state has sustained its burden of proof that the prevailing eligible party engaged in conduct during the course of the action or appeal that unduly and unreasonably protracted the final resolution of the matter in controversy, the court may reduce the amount of an award, or deny an award, to that party to the extent of that conduct.

An order of a court considering a motion under this section is appealable as in other cases, by a prevailing eligible party that is denied an award or receives a reduced award. If the case is an appeal of the adjudication order of an agency pursuant to section 119.12 of the Revised Code, the agency may appeal an order granting an award. The order of the court may be modified by the appellate court only if it finds that the grant or the failure to grant an award, or the calculation of the amount of an award, involved an abuse of discretion.

(C) Compensation for fees awarded to a prevailing eligible party under this section may be paid by the specific branch of the state government or the state department, board, office, commission, agency, institution, or other instrumentality over which the party prevailed in the action or appeal from any funds available to it for payment of such compensation. If compensation is not paid from such funds or such funds are not available, upon the filing of the court's order in favor of the prevailing eligible party with the clerk of the court of claims, the order shall be treated as if it were a judgment under Chapter 2743. of the Revised Code and be payable in accordance with the procedures specified in section 2743.19 of the Revised Code, except that interest shall not be paid in relation to the award.

(D) If compensation for fees is awarded under this section to a prevailing eligible party that is appealing an agency adjudication order pursuant to section 119.12 of the Revised Code, it shall include the fees incurred in the appeal and, if requested in the motion, the fees incurred by

the party in the adjudication hearing conducted under Chapter 119. of the Revised Code. A motion containing such a request shall itemize, in the manner described in division (B)(1)(e) of section 119.092 of the Revised Code, the fees, as defined in that section, that are sought in an award.

(E) Each court that orders during any fiscal year compensation for fees to be paid to a prevailing eligible party pursuant to this section shall prepare a report for that year. The report shall be completed no later than the first day of October of the fiscal year following the fiscal year covered by the report, and copies of it shall be filed with the general assembly. It shall contain the following information:

(1) The total amount and total number of awards of compensation for fees required to be paid to prevailing eligible parties;

(2) The amount and nature of each individual award ordered;

(3) Any other information that may aid the general assembly in evaluating the scope and impact of awards of compensation for fees.

(F) The provisions of this section do not apply in ~~appropriation~~ any of the following:

(1) Appropriation proceedings under Chapter 163. of the Revised Code; ~~in civil~~

(2) Civil actions or appeals of civil actions that involve torts; ~~or in an~~

(3) An appeal pursuant to section 119.12 of the Revised Code that involves ~~an~~ any of the following:

(a) An adjudication order entered after a hearing described in division (F) of section 119.092 of the Revised Code, ~~or that involves a~~;

(b) A prevailing eligible party represented in the appeal by an attorney who was paid pursuant to an appropriation by the federal or state government or a local government;

(c) An administrative appeal decision made under section 5101.35 of the Revised Code.

Sec. 2505.13. If a supersedeas bond has been executed and filed and the surety is one other than a surety company, the clerk of the court with which the bond has been filed, upon request, shall issue a certificate that sets forth the fact that the bond has been filed and that states the style and number of the appeal, the amount of the bond, and the sureties on it. Such a certificate may be filed in the office of the county recorder of any county in which the sureties may own land, and, when filed, the bond shall be a lien upon the land of the sureties in such county. The lien shall be extinguished upon the satisfaction, reversal, or vacation of the final order, judgment, or decree involved, or by an order of the court that entered the final order, judgment, or decree, that releases the lien or releases certain land from the operation of

the lien.

The clerk, upon request, shall issue a notice of discharge of such a lien, which may be filed in the office of any recorder in whose office the certificate of lien was filed. Such notice shall state that the final order, judgment, or decree involved is satisfied, reversed, or vacated, or that an order has been entered that releases the lien or certain land from the operation of the lien. Such recorder shall properly keep and file such certificates and notices as are filed with ~~him~~ the recorder and shall index them in the book or record provided for in section 2937.27 of the Revised Code.

The fee for issuing such a certificate or notice shall be as provided by law, and shall be taxed as part of the costs of the appeal. A county recorder shall receive a base fee of fifty cents for filing and indexing such a certificate, which fee shall cover the filing and the entering on the index of ~~such a~~ the notice and a housing trust fund fee of fifty cents pursuant to section 317.36 of the Revised Code.

Sec. 2715.041. (A) Upon the filing of a motion for an order of attachment pursuant to section 2715.03 of the Revised Code, the plaintiff shall file with the clerk of the court a praecipe instructing the clerk to issue to the defendant against whom the motion was filed a notice of the proceeding. Upon receipt of the praecipe, the clerk shall issue the notice which shall be in substantially the following form:

"(Name and Address of Court)

Case No.....

(Case Caption)

NOTICE

You are hereby notified that (name and address of plaintiff), the plaintiff in this proceeding, has applied to this court for the attachment of property in your possession. The basis for this application is indicated in the documents that are enclosed with this notice.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed on by a creditor are:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance administered by the Ohio department of job and family services;

- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.

If you dispute the plaintiff's claim and believe that you are entitled to retain possession of the property because it is exempt or for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form appearing below, or in a substantially similar form, and delivering the request for the hearing to this court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form, but you are not required to do so. If you do state your reasons for disputing the claim in the space provided on the form, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing.

If you request a hearing, it will be conducted in courtroom, (address of court), at m. on, ...

You may avoid having a hearing but retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of \$.....

If you do not request a hearing or file a bond on or before the end of the fifth business day after you receive this notice, the court, without further notice to you, may order a law enforcement officer or bailiff to take possession of the property. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

.....
Clerk of Court
Date:....."

(B) Along with the notice required by division (A) of this section, the clerk of the court also shall deliver to the defendant, in accordance with division (C) of this section, a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a

postage-paid, self-addressed postcard. The request for hearing shall be in substantially the following form:

"(Name and Address of Court)

Case Number Date

REQUEST FOR HEARING

I dispute the claim for the attachment of property in the above case and request that a hearing in this matter be held at the time and place set forth in the notice that I previously received.

I dispute the claim for the following reasons:

.....
(Optional)

.....
.....

.....
(Name of Defendant)

.....
(Signature)

.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AT THIS TIME AND YOU MAY BE REQUIRED TO GIVE UP THE PROPERTY SOUGHT WITHOUT A HEARING."

(C) The notice required by division (A) of this section shall be served on the defendant in duplicate not less than seven business days prior to the date on which the hearing is scheduled, together with a copy of the complaint and summons, if not previously served, and a copy of the motion for the attachment of property and the affidavit attached to the motion, in the same manner as provided in the Rules of Civil Procedure for the service of process. Service may be effected by publication as provided in the Rules of Civil Procedure except that the number of weeks for publication may be reduced by the court to the extent appropriate.

Sec. 2715.045. (A) Upon the filing of a motion for attachment, a court may issue an order of attachment without issuing notice to the defendant against whom the motion was filed and without conducting a hearing if the court finds that there is probable cause to support the motion and that the plaintiff that filed the motion for attachment will suffer irreparable injury if

the order is delayed until the defendant against whom the motion has been filed has been given the opportunity for a hearing. The court's findings shall be based upon the motion and affidavit filed pursuant to section 2715.03 of the Revised Code and any other relevant evidence that it may wish to consider.

(B) A finding by the court that the plaintiff will suffer irreparable injury may be made only if the court finds the existence of either of the following circumstances:

(1) There is present danger that the property will be immediately disposed of, concealed, or placed beyond the jurisdiction of the court.

(2) The value of the property will be impaired substantially if the issuance of an order of attachment is delayed.

(C)(1) Upon the issuance by a court of an order of attachment without notice and hearing pursuant to this section, the plaintiff shall file the order with the clerk of the court, together with a praecipe instructing the clerk to issue to the defendant against whom the order was issued a copy of the motion, affidavit, and order of attachment, and a notice that an order of attachment was issued and that the defendant has a right to a hearing on the matter. The clerk then immediately shall serve upon the defendant, in the manner provided by the Rules of Civil Procedure for service of process, a copy of the complaint and summons, if not previously served, a copy of the motion, affidavit, and order of attachment, and the following notice:

"(Name and Address of the Court)

(Case Caption)

Case No.

NOTICE

You are hereby notified that this court has issued an order in the above case in favor of (name and address of plaintiff), the plaintiff in this proceeding, directing that property now in your possession, be taken from you. This order was issued on the basis of the plaintiff's claim against you as indicated in the documents that are enclosed with this notice.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed on by a creditor are:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance administered by the Ohio department of job and family services;

- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

Additionally, your wages never can be taken to pay a debt until a judgment has been obtained against you. There may be other benefits not included in this list that apply in your case.

If you dispute the plaintiff's claim and believe that you are entitled to possession of the property because it is exempt or for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court, no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the claim in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the claim, you are not prohibited from stating any other reasons at the hearing, and if you do not state your reasons, it will not be held against you by the court and you can state your reasons at the hearing. If you request a hearing, it will be held within three business days after delivery of your request for hearing and notice of the date, time, and place of the hearing will be sent to you.

You may avoid a hearing but recover and retain possession of the property until the entry of final judgment in the action by filing with the court, at the office of the clerk of this court, not later than the end of the fifth business day after you receive this notice, a bond executed by an acceptable surety in the amount of \$.....

If you do not request a hearing or file a bond before the end of the fifth business day after you receive this notice, possession of the property will be withheld from you during the pendency of the action. Notice of the dates, times, places, and purposes of any subsequent hearings and of the date, time, and place of the trial of the action will be sent to you.

.....
Clerk of the Court

.....
Date"

(2) Along with the notice required by division (C)(1) of this section, the clerk of the court also shall deliver to the defendant a request for hearing form together with a postage-paid, self-addressed envelope or a request for hearing form on a postage-paid, self-addressed postcard. The request for

hearing shall be in substantially the following form:

"(Name and Address of Court)

Case Number Date

REQUEST FOR HEARING

I dispute the claim for possession of property in the above case and request that a hearing in this matter be held within three business days after delivery of this request to the court.

I dispute the claim for the following reasons:

.....
(Optional)

.....
.....

.....
(Name of Defendant)

.....
(Signature)

.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND POSSESSION OF THE PROPERTY WILL BE WITHHELD FROM YOU DURING THE PENDENCY OF THE ACTION."

(D) The defendant may receive a hearing in accordance with section 2715.043 of the Revised Code by delivering a written request for hearing to the court within five business days after receipt of the notice provided pursuant to division (C) of this section. The request may set forth the defendant's reasons for disputing the plaintiff's claim for possession of property. However, neither the defendant's inclusion of nor failure to include such reasons upon the request constitutes a waiver of any defense of the defendant or affects the defendant's right to produce evidence at any hearing or at the trial of the action. If the request is made by the defendant, the court shall schedule a hearing within three business days after the request is made, send notice to the parties of the date, time, and place of the hearing, and hold the hearing accordingly.

(E) If, after hearing, the court finds that there is not probable cause to support the motion, it shall order that the property be redelivered to the defendant without the condition of bond.

Sec. 2716.13. (A) Upon the filing of a proceeding in garnishment of property, other than personal earnings, under section 2716.11 of the Revised Code, the court shall cause the matter to be set for hearing within twelve days after that filing.

(B) Upon the scheduling of a hearing relative to a proceeding in garnishment of property, other than personal earnings, under division (A) of this section, the clerk of the court immediately shall issue to the garnishee three copies of the order of garnishment of property, other than personal earnings, and of a written notice that the garnishee answer as provided in section 2716.21 of the Revised Code and the garnishee's fee required by section 2716.12 of the Revised Code. The copies of the order and of the notice shall be served upon the garnishee in the same manner as a summons is served. The copies of the order and of the notice shall not be served later than seven days prior to the date on which the hearing is scheduled. The order shall bind the property, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service.

The order of garnishment of property, other than personal earnings, and notice to answer shall be in substantially the following form:

"ORDER AND NOTICE OF GARNISHMENT
OF PROPERTY OTHER THAN PERSONAL EARNINGS
AND ANSWER OF GARNISHEE

Docket No.

Case No.

In the Court
....., Ohio

The State of Ohio

County of, ss

....., Judgment Creditor

vs.

....., Judgment Debtor

SECTION A. COURT ORDER AND NOTICE OF GARNISHMENT

To:, Garnishee

The judgment creditor in the above case has filed an affidavit, satisfactory to the undersigned, in this Court stating that you have money, property, or credits, other than personal earnings, in your hands or under your control that belong to the judgment debtor, and that some of the money, property, or credits may not be exempt from garnishment under the laws of the State of Ohio or the laws of the United States.

You are therefore ordered to complete the "ANSWER OF GARNISHEE" in section (B) of this form. Return one completed and signed

copy of this form to the clerk of this court together with the amount determined in accordance with the "ANSWER OF GARNISHEE" by the following date on which a hearing is tentatively scheduled relative to this order of garnishment: Deliver one completed and signed copy of this form to the judgment debtor prior to that date. Keep the other completed and signed copy of this form for your files.

The total probable amount now due on this judgment is \$..... The total probable amount now due includes the unpaid portion of the judgment in favor of the judgment creditor, which is \$.....; interest on that judgment and, if applicable, prejudgment interest relative to that judgment at the rate of% per annum payable until that judgment is satisfied in full; and court costs in the amount of \$.....

You also are ordered to hold safely anything of value that belongs to the judgment debtor and that has to be paid to the court, as determined under the "ANSWER OF GARNISHEE" in section (B) of this form, but that is of such a nature that it cannot be so delivered, until further order of the court.

Witness my hand and the seal of this court this day of,
.....

.....
Judge

SECTION B. ANSWER OF GARNISHEE

Now comes the garnishee, who says:

1. That the garnishee has money, property, or credits, other than personal earnings, of the judgment debtor under the garnishee's control and in the garnishee's possession.

.....

yes

.....

no

.....

if yes, amount

2. That property is described as:

3. If the answer to line 1 is "yes" and the amount is less than the probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay the amount of line 1 to the clerk of this court.

4. If the answer to line 1 is "yes" and the amount is greater than that probable amount now due on the judgment, as indicated in section (A) of this form, sign and return this form and pay that probable amount now due to the clerk of this court.

5. If the answer to line 1 is "yes" but the money, property, or credits are of such a nature that they cannot be delivered to the clerk of the court, indicate that by placing an "X" in this space: Do not dispose of that money, property, or credits or give them to anyone else until further order of

the court.

6. If the answer to line 1 is "no," sign and return this form to the clerk of this court.

I certify that the statements above are true.

.....
(Print Name of Garnishee)

.....
(Print Name and Title of
Person Who Completed Form)

Signed.....
(Signature of Person Completing Form)

Dated this day of, ..."

Section A of the form described in this division shall be completed before service. Section B of the form shall be completed by the garnishee, and the garnishee shall file one completed and signed copy of the form with the clerk of the court as the garnishee's answer. The garnishee may keep one completed and signed copy of the form and shall deliver the other completed and signed copy of the form to the judgment debtor.

If several affidavits seeking orders of garnishment of property, other than personal earnings, are filed against the same judgment debtor in accordance with section 2716.11 of the Revised Code, the court involved shall issue the requested orders in the same order in which the clerk received the associated affidavits.

(C)(1) At the time of the filing of a proceeding in garnishment of property, other than personal earnings, under section 2716.11 of the Revised Code, the judgment creditor also shall file with the clerk of the court a praecipe instructing the clerk to issue to the judgment debtor a notice to the judgment debtor form and a request for hearing form. Upon receipt of the praecipe and the scheduling of a hearing relative to an action in garnishment of property, other than personal earnings, under division (A) of this section, the clerk of the court immediately shall serve upon the judgment debtor, in accordance with division (D) of this section, two copies of the notice to the judgment debtor form and of the request for hearing form. The copies of the notice to the judgment debtor form and of the request for hearing form shall not be served later than seven days prior to the date on which the hearing is scheduled.

(a) The notice to the judgment debtor that must be served upon the judgment debtor shall be in substantially the following form:

"(Name and Address of the Court)

(Case Caption) Case No.

NOTICE TO THE JUDGMENT DEBTOR

You are hereby notified that this court has issued an order in the above case in favor of (name and address of judgment creditor), the judgment creditor in this proceeding, directing that some of your money, property, or credits, other than personal earnings, now in the possession of (name and address of garnishee), the garnishee in this proceeding, be used to satisfy your debt to the judgment creditor. This order was issued on the basis of the judgment creditor's judgment against you that was obtained in (name of court) in (case number) on (date). Upon your receipt of this notice, you are prohibited from removing or attempting to remove the money, property, or credits until expressly permitted by the court. Any violation of this prohibition subjects you to punishment for contempt of court.

The law of Ohio and the United States provides that certain benefit payments cannot be taken from you to pay a debt. Typical among the benefits that cannot be attached or executed upon by a creditor are the following:

- (1) Workers' compensation benefits;
- (2) Unemployment compensation payments;
- (3) Cash assistance payments under the Ohio works first program;
- (4) Benefits and services under the prevention, retention, and contingency program;
- (5) Disability financial assistance administered by the Ohio department of job and family services;
- (6) Social security benefits;
- (7) Supplemental security income (S.S.I.);
- (8) Veteran's benefits;
- (9) Black lung benefits;
- (10) Certain pensions.

There may be other benefits not included in the above list that apply in your case.

If you dispute the judgment creditor's right to garnish your property and believe that the judgment creditor should not be given your money, property, or credits, other than personal earnings, now in the possession of the garnishee because they are exempt or if you feel that this order is improper for any other reason, you may request a hearing before this court by disputing the claim in the request for hearing form, appearing below, or in a substantially similar form, and delivering the request for hearing to this court at the above address, at the office of the clerk of this court no later than the end of the fifth business day after you receive this notice. You may state your reasons for disputing the judgment creditor's right to garnish your

property in the space provided on the form; however, you are not required to do so. If you do state your reasons for disputing the judgment creditor's right, you are not prohibited from stating any other reason at the hearing. If you do not state your reasons, it will not be held against you by the court, and you can state your reasons at the hearing. **NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.** If you request a hearing, the hearing will be limited to a consideration of the amount of your money, property, or credits, other than personal earnings, in the possession or control of the garnishee, if any, that can be used to satisfy all or part of the judgment you owe to the judgment creditor.

If you request a hearing by delivering your request for hearing no later than the end of the fifth business day after you receive this notice, it will be conducted in courtroom, (address of court), at m. on, ... You may request the court to conduct the hearing before this date by indicating your request in the space provided on the form; the court then will send you notice of any change in the date, time, or place of the hearing. If you do not request a hearing by delivering your request for a hearing no later than the end of the fifth business day after you receive this notice, some of your money, property, or credits, other than personal earnings, will be paid to the judgment creditor.

If you have any questions concerning this matter, you may contact the office of the clerk of this court. If you want legal representation, you should contact your lawyer immediately. If you need the name of a lawyer, contact the local bar association.

.....
Clerk of the Court

.....
Date"

(b) The request for hearing form that must be served upon the judgment debtor shall have attached to it a postage-paid, self-addressed envelope or shall be on a postage-paid self-addressed postcard, and shall be in substantially the following form:

"(Name and Address of Court)

Case Number Date

REQUEST FOR HEARING

I dispute the judgment creditor's right to garnish my money, property, or credits, other than personal earnings, in the above case and request that a hearing in this matter be held

.....

(Insert "on" or "earlier than")
the date and time set forth in the document entitled "NOTICE TO THE JUDGMENT DEBTOR" that I received with this request form.

I dispute the judgment creditor's right to garnish my property for the following reasons:

.....
(Optional)

.....
.....

I UNDERSTAND THAT NO OBJECTIONS TO THE JUDGMENT ITSELF WILL BE HEARD OR CONSIDERED AT THE HEARING.

.....
(Name of Judgment Debtor)

.....
(Signature)

.....
(Date)

WARNING: IF YOU DO NOT DELIVER THIS REQUEST FOR HEARING OR A REQUEST IN A SUBSTANTIALLY SIMILAR FORM TO THE OFFICE OF THE CLERK OF THIS COURT WITHIN FIVE (5) BUSINESS DAYS OF YOUR RECEIPT OF IT, YOU WAIVE YOUR RIGHT TO A HEARING AND SOME OF YOUR MONEY, PROPERTY, OR CREDITS, OTHER THAN PERSONAL EARNINGS, NOW IN THE POSSESSION OF (GARNISHEE'S NAME) WILL BE PAID TO (JUDGMENT CREDITOR'S NAME) TO SATISFY SOME OF YOUR DEBT TO (JUDGMENT CREDITOR'S NAME)."

(2) The judgment debtor may receive a hearing in accordance with this division by delivering a written request for hearing to the court within five business days after receipt of the notice provided pursuant to division (C)(1) of this section. The request may set forth the judgment debtor's reasons for disputing the judgment creditor's right to garnish the money, property, or credits, other than personal earnings; however, neither the judgment debtor's inclusion of nor failure to include those reasons upon the request constitutes a waiver of any defense of the judgment debtor or affects the judgment debtor's right to produce evidence at the hearing. If the request is made by the judgment debtor within the prescribed time, the hearing shall be limited to a consideration of the amount of money, property, or credits, other than personal earnings, of the judgment debtor in the hands of the garnishee, if any, that can be used to satisfy all or part of the debt owed by the judgment debtor to the judgment creditor. If a request for a hearing is not received by

the court within the prescribed time, the hearing scheduled pursuant to division (A) of this section shall be canceled unless the court grants the judgment debtor a continuance in accordance with division (C)(3) of this section.

(3) If the judgment debtor does not request a hearing in the action within the prescribed time pursuant to division (C)(2) of this section, the court nevertheless may grant a continuance of the scheduled hearing if the judgment debtor, prior to the time at which the hearing was scheduled, as indicated on the notice to the judgment debtor required by division (C)(1) of this section, establishes a reasonable justification for failure to request the hearing within the prescribed time. If the court grants a continuance of the hearing, it shall cause the matter to be set for hearing as soon as practicable thereafter. The continued hearing shall be conducted in accordance with division (C)(2) of this section.

(4) The court may conduct the hearing on the matter prior to the time at which the hearing was scheduled, as indicated on the notice to the judgment debtor required by division (C)(1) of this section, upon the request of the judgment debtor. The parties shall be sent notice, by the clerk of the court, by regular mail, of any change in the date, time, or place of the hearing.

(5) If the scheduled hearing is canceled and no continuance is granted, the court shall issue an order to the garnishee to pay all or some of the money, property, or credits, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service of the notice and order into court if they have not already been paid to the court. This order shall be based on the answer of the garnishee filed pursuant to this section. If the scheduled hearing is conducted or if it is continued and conducted, the court shall determine at the hearing the amount of the money, property, or credits, other than personal earnings, of the judgment debtor in the possession of the garnishee at the time of service of the notice and order, if any, that can be used to satisfy all or part of the debt owed by the judgment debtor to the judgment creditor, and issue an order, accordingly, to the garnishee to pay that amount into court if it has not already been paid to the court.

(D) The notice to the judgment debtor form and the request for hearing form described in division (C) of this section shall be sent by the clerk by ordinary or regular mail service unless the judgment creditor requests that service be made in accordance with the Rules of Civil Procedure, in which case the forms shall be served in accordance with the Rules of Civil Procedure. Any court of common pleas that issues an order of garnishment of property, other than personal earnings, under this section has jurisdiction

to serve process pursuant to this section upon a garnishee who does not reside within the jurisdiction of the court. Any county court or municipal court that issues an order of garnishment of property, other than personal earnings, under this section has jurisdiction to serve process pursuant to this section upon a garnishee who does not reside within the jurisdiction of the court.

Sec. 2743.02. (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) of this section. To the extent that the state has previously consented to be sued, this chapter has no applicability.

Except in the case of a civil action filed by the state, filing a civil action in the court of claims results in a complete waiver of any cause of action, based on the same act or omission, which the filing party has against any officer or employee, as defined in section 109.36 of the Revised Code. The waiver shall be void if the court determines that the act or omission was manifestly outside the scope of the officer's or employee's office or employment or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) If a claimant proves in the court of claims that an officer or employee, as defined in section 109.36 of the Revised Code, would have personal liability for the officer's or employee's acts or omissions but for the fact that the officer or employee has personal immunity under section 9.86 of the Revised Code, the state shall be held liable in the court of claims in any action that is timely filed pursuant to section 2743.16 of the Revised Code and that is based upon the acts or omissions.

(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals owned or operated by political subdivisions which have been determined by the supreme court to be subject to suit prior to July 28, 1975.

(C) Any hospital, as defined in section 2305.113 of the Revised Code, may purchase liability insurance covering its operations and activities and its agents, employees, nurses, interns, residents, staff, and members of the governing board and committees, and, whether or not such insurance is purchased, may, to such extent as its governing board considers appropriate, indemnify or agree to indemnify and hold harmless any such person against expense, including attorney's fees, damage, loss, or other liability arising out of, or claimed to have arisen out of, the death, disease, or injury of any person as a result of the negligence, malpractice, or other action or inaction of the indemnified person while acting within the scope of the indemnified person's duties or engaged in activities at the request or direction, or for the benefit, of the hospital. Any hospital electing to indemnify such persons, or to agree to so indemnify, shall reserve such funds as are necessary, in the exercise of sound and prudent actuarial judgment, to cover the potential expense, fees, damage, loss, or other liability. The superintendent of insurance may recommend, or, if such hospital requests the superintendent to do so, the superintendent shall recommend, a specific amount for any period that, in the superintendent's opinion, represents such a judgment. This authority is in addition to any authorization otherwise provided or permitted by law.

(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant. This division does not apply to civil actions in the court of claims against a state university or college under the circumstances described in section 3345.40 of the Revised Code. The collateral benefits provisions of division (B)(2) of that section apply under those circumstances.

(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for two thousand five hundred dollars or less, that is filed in the court of claims.

(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims, which has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action.

The filing of a claim against an officer or employee under this division tolls the running of the applicable statute of limitations until the court of claims determines whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

(G) Whenever a claim lies against an officer or employee who is a member of the Ohio national guard, and the officer or employee was, at the time of the act or omission complained of, subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671, et seq., then the Federal Tort Claims Act is the exclusive remedy of the claimant and the state has no liability under this section.

(H) If an inmate of a state correctional institution has a claim against the state for the loss of or damage to property and the amount claimed does not exceed three hundred dollars, before commencing an action against the state in the court of claims, the inmate shall file a claim for the loss or damage under the rules adopted by the director of rehabilitation and correction pursuant to this division. The inmate shall file the claim within the time allowed for commencement of a civil action under section 2743.16 of the Revised Code. If the state admits or compromises the claim, the director shall make payment from a fund designated by the director for that purpose. If the state denies the claim or does not compromise the claim at least sixty days prior to expiration of the time allowed for commencement of a civil action based upon the loss or damage under section 2743.16 of the Revised Code, the inmate may commence an action in the court of claims under this chapter to recover damages for the loss or damage.

The director of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this division.

Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

(a) The payment of awards of reparations that are granted by the attorney general;

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;

(c) The compensation of witnesses as provided in division ~~(B)~~(J) of section 2743.65 of the Revised Code;

(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;

(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;

(f) The costs of investigation and decision-making as certified by the attorney general;

(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;

(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;

(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;

(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;

(k) The payment of costs of administering a DNA specimen collection procedure pursuant to section 2152.74 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section and pursuant to section 2901.07 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code.

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (L)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (D)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

- (i) A resident of the United States;
- (ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.

- (b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;

- (c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

- (d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;

- (e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

- (a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

- (i) Had a permanent place of employment in this state;

- (ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

- (iii) Was retired and receiving social security or any other retirement income;

- (iv) Was sixty years of age or older;

- (v) Was temporarily in another state for the purpose of receiving medical treatment;

- (vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

- (vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;

- (viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(3) Social security, medicare, and medicaid;

(4) State-required, temporary, nonoccupational disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability;

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;

(10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OMVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory,

or foreign country in which the conduct occurred or was attempted;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OMVI violation;

(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code.

(3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.

(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F)(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application. The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type ~~shall not exceed two~~ and seven thousand

five hundred dollars in the aggregate for all immediate family members of a victim of that type.

(3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.

(4) "Allowable expense" includes attorney's fees not exceeding two thousand five hundred dollars, at a rate not exceeding one hundred fifty dollars per hour, incurred to successfully obtain a restraining order, custody order, or other order to physically separate a victim from an offender, if the attorney has not received payment under section 2743.65 of the Revised Code for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's death.

(J) "Dependent's replacement services loss" means loss reasonably

incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

(1) Criminally injurious conduct;

(2) The good faith effort of any person to prevent criminally injurious conduct;

(3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of five seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division

(A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OMVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, at the time of the commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;
(c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.

(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.

(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to ~~a~~ the victim ~~within the first degree~~ by affinity or consanguinity.

(X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Sec. 2743.60. (A) The attorney general, a court of claims panel of commissioners, or a judge of the court of claims shall not make or order an award of reparations to any claimant who, if the victim of the criminally injurious conduct was an adult, did not file an application for an award of reparations within two years after the date of the occurrence of the criminally injurious conduct that caused the injury or death for which the victim is seeking an award of reparations or who, if the victim of that criminally injurious conduct was a minor, did not file an application for an award of reparations within the period provided by division ~~(C)~~(B)(1) of section 2743.56 of the Revised Code. An award of reparations shall not be

made to a claimant if the criminally injurious conduct upon which the claimant bases a claim was not reported to a law enforcement officer or agency within seventy-two hours after the occurrence of the conduct, unless it is determined that good cause existed for the failure to report the conduct within the seventy-two-hour period.

(B)(1) The attorney general, a panel of commissioners, or a judge of the court of claims shall not make or order an award of reparations to a claimant if any of the following apply:

(a) The claimant is the offender or an accomplice of the offender who committed the criminally injurious conduct, or the award would unjustly benefit the offender or accomplice.

(b) Except as provided in division (B)(2) of this section, both of the following apply:

(i) The victim was a passenger in a motor vehicle and knew or reasonably should have known that the driver was under the influence of alcohol, a drug of abuse, or both.

(ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.

(c) Both of the following apply:

(i) The victim was under the influence of alcohol, a drug of abuse, or both and was a passenger in a motor vehicle and, if sober, should have reasonably known that the driver was under the influence of alcohol, a drug of abuse, or both.

(ii) The claimant is seeking compensation for injuries proximately caused by the driver described in division (B)(1)(b)(i) of this section being under the influence of alcohol, a drug of abuse, or both.

(2) Division (B)(1)(b) of this section does not apply if on the date of the occurrence of the criminally injurious conduct, the victim was under sixteen years of age or was at least sixteen years of age but less than eighteen years of age and was riding with a parent, guardian, or care-provider.

(C) The attorney general, a panel of commissioners, or a judge of the court of claims, upon a finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny a claim or reconsider and reduce an award of reparations.

(D) The attorney general, a panel of commissioners, or a judge of the court of claims shall reduce an award of reparations or deny a claim for an award of reparations that is otherwise payable to a claimant to the extent that the economic loss upon which the claim is based is recouped from other persons, including collateral sources. If an award is reduced or a claim is

denied because of the expected recoupment of all or part of the economic loss of the claimant from a collateral source, the amount of the award or the denial of the claim shall be conditioned upon the claimant's economic loss being recouped by the collateral source. If the award or denial is conditioned upon the recoupment of the claimant's economic loss from a collateral source and it is determined that the claimant did not unreasonably fail to present a timely claim to the collateral source and will not receive all or part of the expected recoupment, the claim may be reopened and an award may be made in an amount equal to the amount of expected recoupment that it is determined the claimant will not receive from the collateral source.

If the claimant recoups all or part of the economic loss upon which the claim is based from any other person or entity, including a collateral source, the attorney general may recover pursuant to section 2743.72 of the Revised Code the part of the award that represents the economic loss for which the claimant received the recoupment from the other person or entity.

(E) ~~The~~ (1) Except as otherwise provided in division (E)(2) of this section, the attorney general, a panel of commissioners, or a judge of the court of claims shall not make an award to a claimant if any of the following applies:

~~(1)~~ (a) The victim was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.

~~(2)~~ (b) The claimant was convicted of a felony within ten years prior to the criminally injurious conduct that gave rise to the claim or is convicted of a felony during the pendency of the claim.

~~(3)~~ (c) It is proved by a preponderance of the evidence that the victim or the claimant engaged, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim, in an offense of violence, a violation of section 2925.03 of the Revised Code, or any substantially similar offense that also would constitute a felony under the laws of this state, another state, or the United States.

~~(4)~~ (d) The claimant was convicted of a violation of section 2919.22 or 2919.25 of the Revised Code, or of any state law or municipal ordinance substantially similar to either section, within ten years prior to the criminally injurious conduct that gave rise to the claim or during the pendency of the claim.

(e) It is proved by a preponderance of the evidence that the victim at the time of the criminally injurious conduct that gave rise to the claim engaged in conduct that was a felony violation of section 2925.11 of the Revised Code or engaged in any substantially similar conduct that would constitute a

felony under the laws of this state, another state, or the United States.

(2) The attorney general, a panel of commissioners, or a judge of the court of claims may make an award to a minor dependent of a deceased victim for dependent's economic loss or for counseling pursuant to division (F)(2) of section 2743.51 of the Revised Code if the minor dependent is not ineligible under division (E)(1) of this section due to the minor dependent's criminal history and if the victim was not killed while engaging in illegal conduct that contributed to the criminally injurious conduct that gave rise to the claim. For purposes of this section, the use of illegal drugs by the deceased victim shall not be deemed to have contributed to the criminally injurious conduct that gave rise to the claim.

(F) In determining whether to make an award of reparations pursuant to this section, the attorney general or panel of commissioners shall consider whether there was contributory misconduct by the victim or the claimant. The attorney general, a panel of commissioners, or a judge of the court of claims shall reduce an award of reparations or deny a claim for an award of reparations to the extent it is determined to be reasonable because of the contributory misconduct of the claimant or the victim.

When the attorney general decides whether a claim should be denied because of an allegation of contributory misconduct, the burden of proof on the issue of that alleged contributory misconduct shall be upon the claimant, if either of the following apply:

(1) The victim was convicted of a felony more than ten years prior to the criminally injurious conduct that is the subject of the claim or has a record of felony arrests under the laws of this state, another state, or the United States.

(2) There is good cause to believe that the victim engaged in an ongoing course of criminal conduct within five years or less of the criminally injurious conduct that is the subject of the claim.

~~For purposes of this section, if it is proven by a preponderance of the evidence that the victim engaged in conduct at the time of the criminally injurious conduct that was a felony violation of section 2925.11 of the Revised Code, the conduct shall be presumed to have contributed to the criminally injurious conduct and shall result in a complete denial of the claim.~~

(G) The attorney general, a panel of commissioners, or a judge of the court of claims shall not make an award of reparations to a claimant if the criminally injurious conduct that caused the injury or death that is the subject of the claim occurred to a victim who was an adult and while the victim, after being convicted of or pleading guilty to an offense, was serving

a sentence of imprisonment in any detention facility, as defined in section 2921.01 of the Revised Code.

(H) If a claimant unreasonably fails to present a claim timely to a source of benefits or advantages that would have been a collateral source and that would have reimbursed the claimant for all or a portion of a particular expense, the attorney general, a panel of commissioners, or a judge of the court of claims may reduce an award of reparations or deny a claim for an award of reparations to the extent that it is reasonable to do so.

(I) Reparations payable to a victim and to all other claimants sustaining economic loss because of injury to or the death of that victim shall not exceed fifty thousand dollars in the aggregate. If the attorney general, a panel of commissioners, or a judge of the court of claims reduces an award under division (F) of this section, the maximum aggregate amount of reparations payable under this division shall be reduced proportionately to the reduction under division (F) of this section.

Sec. 2743.65. (A) The attorney general shall determine, and the state shall pay, in accordance with this section attorney's fees, commensurate with services rendered, to the attorney representing a claimant under sections 2743.51 to 2743.72 of the Revised Code. The attorney shall submit on an application form an itemized fee bill at the rate of sixty dollars per hour upon receipt of the final decision on the claim. Attorney's fees paid pursuant to this section are subject to the following maximum amounts:

(1) A maximum of seven hundred twenty dollars for claims resolved without the filing of an appeal to the panel of commissioners;

(2) A maximum of one thousand twenty dollars for claims in which an appeal to the panel of commissioners is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the panel of commissioners at the rate of thirty dollars per hour;

(3) A maximum of one thousand three hundred twenty dollars for claims in which an appeal to a judge of the court of claims is filed plus, at the request of an attorney whose main office is not in Franklin county, Delaware county, Licking county, Fairfield county, Pickaway county, Madison county, or Union county, an amount for the attorney's travel time to attend the oral hearing before the judge at the rate of thirty dollars per hour;

(4) A maximum of seven hundred twenty dollars for a supplemental reparations application;

(5) A maximum of two hundred dollars if the claim is denied on the

basis of a claimant's or victim's conviction of a felony offense prior to the filing of the claim. If the claimant or victim is convicted of a felony offense during the pendency of the claim, the two hundred dollars maximum does not apply. If the attorney had knowledge of the claimant's or victim's felony conviction prior to the filing of the application for the claim, the attorney general may determine that the filing of the claim was frivolous and may deny attorney's fees.

(B) The attorney general may determine that an attorney be reimbursed for fees incurred in the creation of a guardianship if the guardianship is required in order for an individual to receive an award of reparations, and those fees shall be reimbursed at a rate of sixty dollars per hour.

(C)(1) The attorney general shall forward an application form for attorney's fees to a claimant's attorney before or when the final decision on a claim is rendered. The application form for attorney's fees shall do all of the following:

- (a) Inform the attorney of the requirements of this section;
- (b) Require a verification statement comporting with the law prohibiting falsification;
- (c) Require an itemized fee statement;
- (d) Require a verification statement that the claimant was served a copy of the completed application form;
- (e) Include notice that the claimant may oppose the application by notifying the attorney general in writing within ten days.

(2) The attorney general shall forward a copy of this section to the attorney with the application form for attorney's fees. The attorney shall file the application form with the attorney general. The attorney general's decision with respect to an award of attorney's fees is final ten days after the attorney general renders the decision and mails a copy of the decision to the attorney at the address provided by the attorney. The attorney may request reconsideration of the decision on grounds that it is insufficient or calculated incorrectly. The attorney general's decision on the request for reconsideration is final.

(D) The attorney general shall review all application forms for attorney's fees that are submitted by a claimant's attorney and shall issue an order approving the amount of fees to be paid to the attorney within sixty days after receipt of the application form.

(E) No attorney's fees shall be paid for the following:

- (1) Estate work or representation of a claimant against a collateral source;
- (2) Duplication of investigative work required to be performed by the

attorney general;

(3) Performance of unnecessary criminal investigation of the offense;

(4) Presenting or appealing an issue that has been repeatedly ruled upon by the highest appellate authority, unless a unique set of facts or unique issue of law exists that distinguishes it;

(5) A fee request that is unreasonable, is not commensurate with services rendered, violates the Ohio code of professional responsibility, or is based upon services that are determined to be frivolous.

(F)(1) The attorney general may reduce or deny the payment of attorney's fees to an attorney who has filed a frivolous claim. Subject to division (A)(5) of this section, the denial of a claim on the basis of a felony conviction, felony conduct, or contributory misconduct does not constitute a frivolous claim.

(2) As used in this section, "frivolous claim" means a claim in which there is clearly no legal grounds under the existing laws of this state to support the filing of a claim on behalf of the claimant or victim.

(G) The attorney general may determine that a lesser number of hours should have been required in a given case. Additional reimbursement may be made where the attorney demonstrates to the attorney general that the nature of the particular claim required the expenditure of an amount in excess of that allowed.

(H) No attorney shall receive payment under this section for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code if that attorney's fees have been allowed as an expense in accordance with division (F)(4) of section 2743.51 of the Revised Code.

(I) A contract or other agreement between an attorney and any person that provides for the payment of attorney's fees or other payments in excess of the attorney's fees allowed under this section for representing a claimant under sections 2743.51 to 2743.72 of the Revised Code shall be void and unenforceable.

~~(H)~~(J) Each witness who appears in a hearing on a claim for an award of reparations shall receive compensation in an amount equal to that received by witnesses in civil cases as provided in section 2335.06 of the Revised Code.

Sec. 2915.01. As used in this chapter:

(A) "Bookmaking" means the business of receiving or paying off bets.

(B) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

(C) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

(D) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(E) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(F) "Gambling device" means any of the following:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;

(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.

(G) "Gambling offense" means any of the following:

(1) A violation of section 2915.02, 2915.03, 2915.04, 2915.05, 2915.07, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.10, or 2915.11 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (G)(1) of this section or a violation of section 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (G)(1), (2), or (3) of this section.

(H) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is in effect

stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, or if the organization is a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter's organization, shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any ~~scheme of chance or~~ game of chance as provided in division ~~(C)~~(D) of section 2915.02 of the Revised Code. A charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization ~~or~~, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under section 2915.08 of the Revised Code or the conducting of any ~~scheme of chance or~~ game of chance as provided in division (D) of section 2915.02 of the Revised Code.

(I) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

(J) "Educational organization" means any organization within this state that is not organized for profit, the ~~exclusive~~ primary purpose of which is to educate and develop the capabilities of individuals through instruction, ~~and that operates or contributes to~~ by means of operating or contributing to the support of a school, academy, college, or university.

(K) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least two years and incorporated as a nonprofit corporation ~~for at least two years~~ and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this division, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at

least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

(L) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in section 146.01 of the Revised Code, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

(M) "Fraternal organization" means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years.

(N) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in section 4765.01 of the Revised Code.

(O) "Service organization" means any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment.

(P) "Nonprofit medical organization" means any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research, or therapeutic services for the public.

(Q) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.

(R) "Charitable bingo game" means any bingo game described in division (S)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to section 2915.08 of the Revised Code and the proceeds of which are used for a charitable purpose.

(S) "Bingo" means either of the following:

(1) A game with all of the following characteristics:

(a) The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

(b) The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.

(c) A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.

(d) The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (S)(1)(c) of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

(T) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.

(U) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

(V) "Participant" means any person who plays bingo.

(W) "Bingo session" means a period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in division (S)(1) of this section, instant bingo, and seal

cards;

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (W)(1) of this section.

(X) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(Y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to sections 109.71 to 109.79 of the Revised Code and who is hired to provide security for the premises on which bingo is conducted.

(Z) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or

organization for the charitable purposes set forth in division (B)(12) of section 5739.02 of the Revised Code, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of section 5739.02 of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in division (L) of this section.

(AA) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

(BB) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(CC) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

(a) The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(b) The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (CC)(1) of this section.

(DD) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide

financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

(EE) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

(FF) "Instant bingo" means a form of bingo that uses folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners. "Instant bingo" includes seal cards. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

(GG) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

(HH) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle.

(II) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

(JJ) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.

(KK) "Net profit" means gross profit minus expenses.

(LL) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:

- (1) The purchase or lease of bingo supplies;
- (2) The annual license fee required under section 2915.08 of the Revised Code;
- (3) Bank fees and service charges for a bingo session or game account described in section 2915.10 of the Revised Code;
- (4) Audits and accounting services;
- (5) Safes;
- (6) Cash registers;
- (7) Hiring security personnel;
- (8) Advertising bingo;
- (9) Renting premises in which to conduct a bingo session;
- (10) Tables and chairs;
- (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;

(12) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of section 2915.08 of the Revised Code.

(MM) "Person" has the same meaning as in section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.

(NN) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.

(OO) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under section 2915.08, 2915.081, or 2915.082 of the Revised Code or a charitable gaming license issued by another jurisdiction.

(PP) "Distributor" means any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state.

(QQ) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

(RR) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in division (S)(1) of this section plus

the annual net profit derived from the conduct of bingo described in division (S)(2) of this section.

(SS) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
- (2) It performs no gaming functions.
- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
- (5) It does not simulate or display rolling or spinning reels.
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.

(7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.

(8) It is not part of an electronic network and is not interactive.

(TT)(1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

(a) It provides a means for a participant to input numbers and letters announced by a bingo caller.

(b) It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

(c) It identifies a winning bingo pattern.

(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

(UU) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.

(VV)(1) "Slot" machine means either of the following:

~~(1)~~(a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance;

~~(2)~~(b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine.

(WW) "Net profit from the proceeds of the sale of instant bingo" means

gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies.

(XX) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization ~~or~~, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization ~~or~~, a fraternal organization, or a sporting organization pursuant to section 2915.13 of the Revised Code.

(YY) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:

- (1) The name of the game;
- (2) The manufacturer's name or distinctive logo;
- (3) The form number;
- (4) The ticket count;
- (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
- (6) The cost per play;
- (7) The serial number of the game.

(ZZ) "Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right of way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under this chapter an amount equal to at least fifty per cent of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003. "Historic railroad" means all or a portion of the tracks and right of way of a railroad that was owned and operated by a for profit common carrier in this state at any time prior to January 1, 1950.

(AAA)(1) "Skill-based amusement machine" means a skill-based

amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply:

(a) The machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, contest, competition, or tournament.

(b) The outcome of an individual's play and participation is not determined largely or wholly by chance.

(c) The outcome of play during a game is not controlled by a person not actively participating in the game.

(2) All of the following apply to any machine that is operated as described in division (AAA)(1) of this section:

(a) As used in this section, "task," "game," and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes based on the results of play.

(b) Advance play for a single task, game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.

(c) To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes that are stated prior to the start of the contest, competition, or tournament.

(BBB) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

(CCC) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio League of sportsmen, and that has been in continuous existence in this state for a period of three years.

Sec. 2915.02. (A) No person shall do any of the following:

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;

(4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;

(5) With purpose to violate division (A)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

(B) For purposes of division (A)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (A)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(C) This section does not prohibit conduct in connection with gambling expressly permitted by law.

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

(1) Games of chance, if all of the following apply:

(a) The games of chance are not craps for money or roulette for money.

(b) The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.

(c) The games of chance are conducted at festivals of the charitable organization that are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately

preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in division (D)(1)(c) of this section if the veteran's or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in division (D)(1)(c) of this section, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under division (B)(1) of section 2915.09 of the Revised Code when it leases premises from another charitable organization to conduct bingo games.

(d) All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(e) The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to section 2915.12 of the Revised Code.

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

(2) Any tag fishing tournament operated under a permit issued under section 1533.92 of the Revised Code, as "tag fishing tournament" is defined in section 1531.01 of the Revised Code;

(3) Bingo conducted by a charitable organization that holds a license issued under section 2915.08 of the Revised Code.

(E) Division (D) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct games of chance, as granted by that division, by any charitable organization that is granted that right.

(F) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of any gambling offense, gambling is a felony of the fifth degree.

Sec. 2915.08. (A)(1) Annually before the first day of January, a charitable organization that desires to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session shall make out,

upon a form to be furnished by the attorney general for that purpose, an application for a license to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session and deliver that application to the attorney general together with a license fee as follows:

(a) Except as otherwise provided in this division, for a license for the conduct of bingo, two hundred dollars;

(b) For a license for the conduct of instant bingo at a bingo session or instant bingo other than at a bingo session for a ~~charitable~~ charitable organization that previously has not been licensed under this chapter to conduct instant bingo at a bingo session or instant bingo other than at a bingo session, a license fee of five hundred dollars, and for any other charitable organization, a license fee that is based upon the ~~total of all money or assets~~ gross profits received by ~~any person or~~ the charitable organization from the operation of instant bingo at a bingo session or instant bingo other than at a bingo session, during the one-year period ending on the thirty-first day of October of the year immediately preceding the year for which the license is sought, and that is one of the following:

(i) Five hundred dollars, if the total is fifty thousand dollars or less;

(ii) One thousand two hundred fifty dollars plus one-fourth per cent of the gross profit, if the total is more than fifty thousand dollars but less than ~~three~~ two hundred fifty thousand one dollars;

(iii) Two thousand two hundred fifty dollars plus one-half per cent of the gross profit, if the total is more than ~~three~~ two hundred fifty thousand dollars but less than ~~six~~ five hundred thousand one dollars;

(iv) Three thousand five hundred dollars plus one per cent of the gross profit, if the total is more than ~~six~~ five hundred thousand dollars but less than one million one dollars;

(v) Five thousand dollars plus one per cent of the gross profit, if the total is one million one dollars or more;

(c) A reduced license fee established by the attorney general pursuant to division (G) of this section.

(d) For a license to conduct bingo for a charitable organization that prior to ~~the effective date of this amendment~~ the effective date of this amendment has not been licensed under this chapter to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, a license fee established by rule by the attorney general in accordance with division (H) of this section.

(2) The application shall be in the form prescribed by the attorney general, shall be signed and sworn to by the applicant, and shall contain all of the following:

- (a) The name and post-office address of the applicant;
- (b) A statement that the applicant is a charitable organization and that it has been in continuous existence as a charitable organization in this state for two years immediately preceding the making of the application or for five years in the case of a fraternal organization or a nonprofit medical organization;
- (c) The location at which the organization will conduct bingo, which location shall be within the county in which the principal place of business of the applicant is located, the days of the week and the times on each of those days when bingo will be conducted, whether the organization owns, leases, or subleases the premises, and a copy of the rental agreement if it leases or subleases the premises;
- (d) A statement of the applicant's previous history, record, and association that is sufficient to establish that the applicant is a charitable organization, and a copy of a determination letter that is issued by the Internal Revenue Service and states that the organization is tax exempt under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code;
- (e) A statement as to whether the applicant has ever had any previous application refused, whether it previously has had a license revoked or suspended, and the reason stated by the attorney general for the refusal, revocation, or suspension;
- (f) A statement of the charitable purposes for which the net profit derived from bingo, other than instant bingo, will be used, and a statement of how the net profit derived from instant bingo will be distributed in accordance with section 2915.101 of the Revised Code;
- (g) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;
- (h) If the applicant is a charitable trust as defined in section 109.23 of the Revised Code, a statement as to whether it has registered with the attorney general pursuant to section 109.26 of the Revised Code or filed annual reports pursuant to section 109.31 of the Revised Code, and, if it is not required to do either, the exemption in section 109.26 or 109.31 of the Revised Code that applies to it;
- (i) If the applicant is a charitable organization as defined in section 1716.01 of the Revised Code, a statement as to whether it has filed with the attorney general a registration statement pursuant to section 1716.02 of the Revised Code and a financial report pursuant to section 1716.04 of the Revised Code, and, if it is not required to do both, the exemption in section

1716.03 of the Revised Code that applies to it;

(j) In the case of an applicant seeking to qualify as a youth athletic park organization, a statement issued by a board or body vested with authority under Chapter 755. of the Revised Code for the supervision and maintenance of recreation facilities in the territory in which the organization is located, certifying that the playing fields owned by the organization were used for at least one hundred days during the year in which the statement is issued, and were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national origin, for athletic activities by youth athletic organizations that do not discriminate on the basis of race, color, creed, religion, sex, or national origin, and that the fields were not used for any profit-making activity at any time during the year. That type of board or body is authorized to issue the statement upon request and shall issue the statement if it finds that the applicant's playing fields were so used.

(3) The attorney general, within thirty days after receiving a timely filed application from a charitable organization that has been issued a license under this section that has not expired and has not been revoked or suspended, shall send a temporary permit to the applicant specifying the date on which the application was filed with the attorney general and stating that, pursuant to section 119.06 of the Revised Code, the applicant may continue to conduct bingo until a new license is granted or, if the application is rejected, until fifteen days after notice of the rejection is mailed to the applicant. The temporary permit does not affect the validity of the applicant's application and does not grant any rights to the applicant except those rights specifically granted in section 119.06 of the Revised Code. The issuance of a temporary permit by the attorney general pursuant to this division does not prohibit the attorney general from rejecting the applicant's application because of acts that the applicant committed, or actions that the applicant failed to take, before or after the issuance of the temporary permit.

(4) Within thirty days after receiving an initial license application from a charitable organization to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, the attorney general shall conduct a preliminary review of the application and notify the applicant regarding any deficiencies. Once an application is deemed complete, or beginning on the thirtieth day after the application is filed, if the attorney general failed to notify the applicant of any deficiencies, the attorney general shall have an additional sixty days to conduct an investigation and either grant or deny the application based on findings established and communicated in accordance with divisions (B) and (E) of this section. As an option to granting or denying an initial license application, the attorney

general may grant a temporary license and request additional time to conduct the investigation if the attorney general has cause to believe that additional time is necessary to complete the investigation and has notified the applicant in writing about the specific concerns raised during the investigation.

(B)(1) The attorney general shall adopt rules to enforce sections 2915.01, 2915.02, and 2915.07 to 2915.13 of the Revised Code to ensure that bingo or instant bingo is conducted in accordance with those sections and to maintain proper control over the conduct of bingo or instant bingo. The rules, except rules adopted pursuant to divisions (A)(2)(g) and (G) of this section, shall be adopted pursuant to Chapter 119. of the Revised Code. The attorney general shall license charitable organizations to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session in conformance with this chapter and with the licensing provisions of Chapter 119. of the Revised Code.

(2) The attorney general may refuse to grant a license to any organization, or revoke or suspend the license of any organization, that does any of the following or to which any of the following applies:

(a) Fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.11 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this section;

(b) Makes or has made an incorrect or false statement that is material to the granting of the license in an application filed pursuant to division (A) of this section;

(c) Submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license;

(d) Maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to divisions (A) and (C) of section 2915.10 of the Revised Code, if applicable;

(e) The attorney general has good cause to believe that the organization will not conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session in accordance with sections 2915.07 to 2915.13 of the Revised Code or with any rule adopted by the attorney general pursuant to this section.

(3) For the purposes of division (B) of this section, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(C) The attorney general may grant licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(D) The attorney general shall send notice in writing to the prosecuting attorney and sheriff of the county in which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session, as stated in its application for a license or amended license, and to any other law enforcement agency in that county that so requests, of all of the following:

- (1) The issuance of the license;
- (2) The issuance of the amended license;
- (3) The rejection of an application for and refusal to grant a license;
- (4) The revocation of any license previously issued;
- (5) The suspension of any license previously issued.

(E) A license issued by the attorney general shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session and the days of the week and the times on each of those days when bingo will be conducted. If the attorney general refuses to grant or revokes or suspends a license, the attorney general shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, or suspension or a mistake in the written notice does not affect the validity of the attorney general's refusal to grant, or the revocation or suspension of, a license. If the attorney general fails to give the written notice or if there is a mistake in the written notice, the applicant may bring an action to compel the attorney general to comply with this division or to correct the mistake, but the attorney general's order refusing to grant, or revoking or suspending, a license shall not be enjoined during the pendency of the action.

(F) A charitable organization that has been issued a license pursuant to division (B) of this section but that cannot conduct bingo or instant bingo at the location, or on the day of the week or at the time, specified on the license due to circumstances that make it impractical to do so may apply in writing, together with an application fee of two hundred fifty dollars, to the attorney general, at least thirty days prior to a change in location, day of the week, or time, and request an amended license. The application shall describe the causes making it impractical for the organization to conduct

bingo or instant bingo in conformity with its license and shall indicate the location, days of the week, and times on each of those days when it desires to conduct bingo or instant bingo. Except as otherwise provided in this division, the attorney general shall issue the amended license in accordance with division (E) of this section, and the organization shall surrender its original license to the attorney general. The attorney general may refuse to grant an amended license according to the terms of division (B) of this section.

(G) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish a schedule of reduced license fees for charitable organizations that desire to conduct bingo or instant bingo during fewer than twenty-six weeks in any calendar year.

(H) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish license fees for the conduct of bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session for charitable organizations that prior to ~~the effective date of this amendment~~ the effective date of this amendment have not been licensed to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session under this chapter.

(I) The attorney general may enter into a written contract with any other state agency to delegate to that state agency the powers prescribed to the attorney general under Chapter 2915. of the Revised Code.

(J) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, may adopt rules to determine the requirements for a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code to be in good standing in the state.

Sec. 2915.081. (A) No distributor shall sell, offer to sell, or otherwise provide or offer to provide bingo supplies to another person for use in this state without having obtained a license from the attorney general under this section.

(B) The attorney general may issue a distributor license to any person that meets the requirements of this section. The application for the license shall be on a form prescribed by the attorney general and be accompanied by the annual fee prescribed by this section. The license is valid for a period of one year, and the annual fee for the license is ~~two~~ five thousand ~~five~~ hundred dollars.

(C) The attorney general may refuse to issue a distributor license to any person to which any of the following applies, or to any person that has an officer, partner, or other person who has an ownership interest of ten per

cent or more and to whom any of the following applies:

(1) The person, officer, or partner has been convicted of a felony under the laws of this state, another state, or the United States.

(2) The person, officer, or partner has been convicted of any gambling offense.

(3) The person, officer, or partner has made an incorrect or false statement that is material to the granting of a license in an application submitted to the attorney general under this section or in a similar application submitted to a gambling licensing authority in another jurisdiction if the statement resulted in license revocation through administrative action in the other jurisdiction.

(4) The person, officer, or partner has submitted any incorrect or false information relating to the application to the attorney general under this section, if the information is material to the granting of the license.

(5) The person, officer, or partner has failed to correct any incorrect or false information that is material to the granting of the license in the records required to be maintained under division (E) of section 2915.10 of the Revised Code.

(6) The person, officer, or partner has had a license related to gambling revoked or suspended under the laws of this state, another state, or the United States.

(D) The attorney general shall not issue a distributor license to any person that is involved in the conduct of bingo on behalf of a charitable organization or that is a lessor of premises used for the conduct of bingo. This division does not prohibit a distributor from advising charitable organizations on the use and benefit of specific bingo supplies or prohibit a distributor from advising a customer on operational methods to improve bingo profitability.

(E)(1) No distributor shall sell, offer to sell, or otherwise provide or offer to provide bingo supplies to any person for use in this state except to a charitable organization that has been issued a license under section 2915.08 of the Revised Code or to another distributor that has been issued a license under this section. No distributor shall accept payment for the sale or other provision of bingo supplies other than by check.

(2) No distributor may donate, give, loan, lease, or otherwise provide any bingo supplies or equipment to a charitable organization for use in a bingo session conditioned on or in consideration for an exclusive right to provide bingo supplies to the charitable organization. A distributor may provide a licensed charitable organization with free samples of the distributor's products to be used as prizes or to be used for the purpose of

sampling.

(3) No distributor shall purchase bingo supplies for use in this state from any person except from a manufacturer issued a license under section 2915.082 of the Revised Code or from another distributor issued a license under this section. Subject to division (D) of section 2915.082 of the Revised Code, no distributor shall pay for purchased bingo supplies other than by check.

(4) No distributor shall participate in the conduct of bingo on behalf of a charitable organization or have any direct or indirect ownership interest in a premises used for the conduct of bingo.

(5) No distributor shall knowingly solicit, offer, pay, or receive any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in this state.

(F) The attorney general may suspend or revoke a distributor license for any of the reasons for which the attorney general may refuse to issue a distributor license specified in division (C) of this section or if the distributor holding the license violates any provision of this chapter or any rule adopted by the attorney general under this chapter.

(G) Whoever violates division (A) or (E) of this section is guilty of illegally operating as a distributor. Except as otherwise provided in this division, illegally operating as a distributor is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (A) or (E) of this section, illegally operating as a distributor is a felony of the fifth degree.

Sec. 2915.082. (A) No manufacturer shall sell, offer to sell, or otherwise provide or offer to provide bingo supplies for use in this state without having obtained a license from the attorney general under this section.

(B) The attorney general may issue a manufacturer license to any person that meets the requirements of this section. The application for the license shall be on a form prescribed by the attorney general and be accompanied by the annual fee prescribed by this section. The license is valid for a period of one year, and the annual fee for the license is ~~two~~ five thousand ~~five hundred~~ dollars.

(C) The attorney general may refuse to issue a manufacturer license to any person to which any of the following applies, or to any person that has an officer, partner, or other person who has an ownership interest of ten per cent or more and to whom any of the following applies:

(1) The person, officer, or partner has been convicted of a felony under the laws of this state, another state, or the United States.

(2) The person, officer, or partner has been convicted of any gambling offense.

(3) The person, officer, or partner has made an incorrect or false statement that is material to the granting of a license in an application submitted to the attorney general under this section or in a similar application submitted to a gambling licensing authority in another jurisdiction if the statement resulted in license revocation through administrative action in the other jurisdiction.

(4) The person, officer, or partner has submitted any incorrect or false information relating to the application to the attorney general under this section, if the information is material to the granting of the license.

(5) The person, officer, or partner has failed to correct any incorrect or false information that is material to the granting of the license in the records required to be maintained under division (F) of section 2915.10 of the Revised Code.

(6) The person, officer, or partner has had a license related to gambling revoked or suspended under the laws of this state, another state, or the United States.

(D)(1) No manufacturer shall sell, offer to sell, or otherwise provide or offer to provide bingo supplies to any person for use in this state except to a distributor that has been issued a license under section 2915.081 of the Revised Code. No manufacturer shall accept payment for the sale of bingo supplies other than by check.

(2) No manufacturer shall knowingly solicit, offer, pay, or receive any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in this state.

(E)(1) The attorney general may suspend or revoke a manufacturer license for any of the reasons for which the attorney general may refuse to issue a manufacturer license specified in division (C) of this section or if the manufacturer holding the license violates any provision of this chapter or any rule adopted by the attorney general under this chapter.

(2) The attorney general may perform an onsite inspection of a manufacturer of bingo supplies that is selling, offering to sell, or otherwise providing or offering to provide bingo supplies or that is applying for a license to sell, offer to sell, or otherwise provide or offer to provide bingo supplies in this state.

(F) Whoever violates division (A) or (D) of this section is guilty of illegally operating as a manufacturer. Except as otherwise provided in this division, illegally operating as a manufacturer is a misdemeanor of the first

degree. If the offender previously has been convicted of a violation of division (A) or (D) of this section, illegally operating as a manufacturer is a felony of the fifth degree.

Sec. 2915.09. (A) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo for a rental rate that is not more than is customary and reasonable for that equipment;

(2) ~~Use~~ Except as otherwise provided in division (A)(3) of this section, ~~use~~ all of the gross receipts from bingo for paying prizes, for renting premises in which to conduct a bingo session, for purchasing or leasing bingo supplies used in conducting bingo, for hiring security personnel, for advertising bingo, or for other expenses listed in division (LL) of section 2915.01 of the Revised Code, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (S)(1) of section 2915.01 of the Revised Code, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars or forty-five per cent of the gross receipts from the bingo described in that division as consideration for the use of the premises.

(3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in division (Z) of section 2915.01 of the Revised Code, or distribute all of the net profit ~~derived from instant bingo~~ from the proceeds of the sale of instant bingo as stated in its license application and in accordance with section 2915.101 of the Revised Code.

(B) No charitable organization that conducts a bingo game described in division (S)(1) of section 2915.01 of the Revised Code shall fail to do any of the following:

(1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are

similar in location, size, and quality but not in excess of four hundred fifty dollars per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service or equipment. A charitable organization shall not lease or sublease premises that it owns or leases to more than one other charitable organization per calendar week for the purpose of conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo sessions on the premises. In no case shall more than two bingo sessions be conducted on any premises in any calendar week.

(2) Display its license conspicuously at the premises where the bingo session is conducted;

(3) Conduct the bingo session in accordance with the definition of bingo set forth in division (S)(1) of section 2915.01 of the Revised Code.

(C) No charitable organization that conducts a bingo game described in division (S)(1) of section 2915.01 of the Revised Code shall do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo session;

(3) Pay concession fees to any person who provides refreshments to the

participants in the bingo session;

(4) Except as otherwise provided in division (C)(4) of this section, conduct more than two bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions.

(5) Pay out more than three thousand five hundred dollars in prizes for bingo games described in division (S)(1) of section 2915.01 of the Revised Code during any bingo session that is conducted by the charitable organization; "Prizes" does not include awards from the conduct of instant bingo.

(6) Conduct a bingo session at any time during the ten-hour period between midnight and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to section 2915.12 of the Revised Code, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the attorney general for an amended license pursuant to division (F) of section 2915.08 of the Revised Code. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service or equipment;

(10) Purchase or lease bingo supplies from any person except a

distributor issued a license under section 2915.081 of the Revised Code;

(11)(a) Use or permit the use of electronic bingo aids except under the following circumstances:

(i) For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.

(ii) The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.

(iii) The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.

(iv) An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.

(v) An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(vi) An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(b) The attorney general may adopt rules in accordance with Chapter 119. of the Revised Code that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the attorney general to verify the number of bingo cards or sheets played during each bingo session.

(12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in division (S)(1) of section 2915.01 of the Revised Code.

(D)(1) Except as otherwise provided in this division (D)(3) of this section, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session. This

(2) Except as otherwise provided in division (D)(3) of this section, no charitable organization shall provide to a bingo game operator any

commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.

~~(3) Nothing in division does not prohibit~~ (D) of this section prohibits an employee of a fraternal organization ~~or~~, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(E) Notwithstanding division (B)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.

(F) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(G) Whoever violates division (A)(2) of this section is guilty of illegally conducting a bingo game, a felony of the fourth degree. Except as otherwise provided in this division, whoever violates division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) to (12), or (D) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (A)(1) or (3), (B)(1), (2), or (3), (C)(1) to (11), or, (D) of this section, a violation of division (A)(1) or (3), (B)(1), (2), or (3), (C), or (D) of this section is a misdemeanor of the first degree. Whoever violates division (C)(12) of this section is guilty of a misdemeanor of the first degree, if the offender previously has been convicted of a violation of division (C)(12) of

this section, a felony of the fourth degree.

Sec. 2915.091. (A) No charitable organization that conducts instant bingo shall do any of the following:

(1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of section 2915.09 of the Revised Code;

(2) Conduct instant bingo unless either of the following apply:

(a) That organization is, and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in section 2915.01 of the Revised Code, is in good standing in the state pursuant to section 2915.08 of the Revised Code, and is in compliance with Chapter 1716. of the Revised Code;

(b) That organization is, and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under section 2915.13 of the Revised Code.

(3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to section 2915.08 of the Revised Code;

(4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;

(5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under section 2915.081 of the Revised Code;

(6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;

(7) Sell an instant bingo ticket or card to a person under eighteen years of age;

(8) Fail to keep unsold instant bingo tickets or cards for less than three years;

(9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any

bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(10) Pay fees to any person for any services performed in relation to an instant bingo game;

(11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;

(12)~~(a)~~ Allow instant bingo tickets or cards to be sold to bingo game operators ~~who are performing work or labor~~ at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold ~~on behalf of the organization as described in division (B) of section 4301.03 of the Revised Code;~~

(b) Division (A)(12)(a) of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo tickets as a prize.

(13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;

(14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under section 2915.081 of the Revised Code as reflected on an invoice issued by the distributor that contains all of the information required by division (E) of section 2915.10 of the Revised Code;

(15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;

(16) Purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards;

(17) Possess bingo supplies that were not obtained in accordance with sections 2915.01 to 2915.13 of the Revised Code.

(B) A charitable organization may conduct instant bingo other than at a bingo session at not more than five separate locations. A charitable organization that is exempt from federal taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization or a fraternal organization is not limited in the number of separate locations the charitable organization may

conduct instant bingo other than at a bingo session.

(C) The attorney general may adopt rules in accordance with Chapter 119. of the Revised Code that govern the conduct of instant bingo by charitable organizations. Before those rules are adopted, the attorney general shall reference the recommended standards for opacity, randomization, minimum information, winner protection, color, and cutting for instant bingo tickets or cards, seal cards, and punch boards established by the North American gaming regulators association.

(D) Whoever violates division (A) of this section or a rule adopted under division ~~(B)~~(C) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of division (A) of this section or of such a rule, illegal instant bingo conduct is a felony of the fifth degree.

Sec. 2915.092. (A) A charitable organization, a public school, a chartered nonpublic school, a community school, or a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), or 501(c)(7) of the Internal Revenue Code may conduct a raffle to raise money for the charitable organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.

~~(B)(1) No charitable organization shall conduct a raffle unless the organization is, and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3) of the Internal Revenue Code.~~

~~(2) No charitable organization shall conduct more than thirty-six raffles during a calendar year.~~

~~(3) No person shall be compensated directly or indirectly for assisting in the conduct or operation of a raffle. Except as provided in division (A) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.~~

~~(C) No raffle drawing shall be conducted on premises other than premises that a charitable organization uses for its charitable programs.~~

~~(D) No person shall fail to use, or give, donate, or otherwise transfer, the net profit from a raffle for a charitable purpose described in division (Z) of section 2915.01 of the Revised Code.~~

~~(E) Whoever violates division (B), (C), or (D) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this division, illegal conduct of a raffle is a misdemeanor of the first degree. If the~~

offender previously has been convicted of a violation of division (B), ~~(C), or (D)~~ of this section, illegal conduct of a raffle is a felony of the fifth degree.

Sec. 2915.093. (A) As used in this section, "retail income from all commercial activity" includes the sale of instant bingo tickets.

(B) A charitable instant bingo organization may conduct instant bingo other than at a bingo session at not more than five separate locations.

(C)(1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(D) ~~No~~ Except as provided in division (G) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(E) The owner or lessor of a location that enters into a contract pursuant to division (C) of this section shall pay up front for the cost of the deal of instant bingo tickets and the gross profits that would be earned by the owner or lessor if all of the instant bingo tickets are sold. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets up to the amount that it paid to the charitable instant bingo organization. If the owner or lessor of the location earns any more money than the owner or lessor paid out in prizes or paid up front, the owner or lessor of the location shall pay that money to the charitable instant bingo organization.

(F) A charitable instant bingo organization shall provide the attorney general with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to division (C) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a

written contract pursuant to division (C) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of Chapter 2915. of the Revised Code.

(G) Division (D) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to the effective date of this amendment, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars.

Sec. 2915.095. The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, shall establish a standard contract to be used by a charitable instant bingo organization, a veteran's organization, ~~or~~ a fraternal organization, or a sporting organization for the conduct of instant bingo other than at a bingo session. The terms of the contract shall be limited to the provisions in Chapter 2915. of the Revised Code.

Sec. 2915.10. (A) No charitable organization that conducts bingo or a game of chance pursuant to division (D) of section 2915.02 of the Revised Code shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

(1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;

(2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;

(3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars or more in value;

(4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or

other purpose set forth in division (Z) of section 2915.01, division (D) of section 2915.02, or section 2915.101 of the Revised Code, a list of each purpose and an itemized list of each expenditure for each purpose;

(5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;

(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from gross receipts under division (X) of section 2915.01 of the Revised Code;

(7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(B) A charitable organization shall keep the records that it is required to maintain pursuant to division (A) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the attorney general of the location at which those records are kept.

(C) The gross profit from each bingo session or game described in division (S)(1) or (2) of section 2915.01 of the Revised Code shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks drawn on the bingo session or game account.

(D) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(E) The attorney general may adopt rules in accordance with Chapter 119. of the Revised Code that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(F) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;

(2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;

(3) A description that clearly identifies the bingo supplies;

(4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(G) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;

(2) A description that clearly identifies the bingo supplies, including serial numbers;

(3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(H) The attorney general or any law enforcement agency may do all of the following:

(1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;

(2) Examine the accounts and records of the organization;

(3) Conduct inspections, audits, and observations of bingo or games of chance;

(4) Conduct inspections of the premises where bingo or games of chance are conducted;

(5) Take any other necessary and reasonable action to determine if a violation of any provision of sections 2915.01 to 2915.13 of the Revised Code has occurred and to determine whether section 2915.11 of the Revised Code has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.

(I) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any

reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the attorney general or a law enforcement agency pursuant to division (H) of this section.

(J) Whoever violates division (A) or (I) of this section is guilty of a misdemeanor of the first degree.

Sec. 2915.101. Except as otherwise provided by law, a charitable organization that conducts instant bingo shall distribute the net profit from the proceeds of the sale of instant bingo as follows:

(A)(1) If a veteran's organization ~~or~~, a fraternal organization, or a sporting organization conducted the instant bingo, the organization shall distribute the net profit from the proceeds of the sale of instant bingo, as follows:

(a) A minimum of fifty per cent shall be distributed to an organization described in division (Z)(1) of section 2915.01 of the Revised Code or to a department or agency of the federal government, the state, or any political subdivision;

(b) ~~Fifteen~~ Five per cent may be distributed for the organization's own charitable purposes.

(c) ~~Thirty-five~~ Forty-five per cent may be deducted and retained by the organization for the organization's expenses in conducting the instant bingo game.

(2) If a veteran's organization ~~or~~, a fraternal organization, or a sporting organization does not distribute the full percentages specified in divisions (A)(1)(b) and (c) of this section for the purposes specified in those divisions, the organization shall distribute the balance of the net profit from the proceeds of the sale of instant bingo not distributed or retained for those purposes to an organization described in division (Z)(1) of section 2915.01 of the Revised Code.

(3) ~~A veteran's organization or a fraternal organization is not required to itemize the organization's expenses. A veteran's organization, a fraternal organization, or a sporting organization shall pay the expenses that are directly for the conduct of instant bingo by check from the checking account devoted exclusively to the bingo session or game and may deduct and retain the remainder of the thirty-five per cent of the net profit from the proceeds of the sale of instant bingo that is for the organization's expenses in conducting the instant bingo game and may transfer that remainder into the organization's general account.~~

(B)(4) If a charitable organization other than a veteran's organization ~~or~~, a fraternal organization, or a sporting organization conducted the instant bingo, the organization shall distribute one hundred per cent of the net profit

as follows:

~~(a) A minimum of seventy per cent shall be distributed from the proceeds of the sale of instant bingo to an organization described in division (Z)(1) of section 2915.01 of the Revised Code or to a department or agency of the federal government, the state, or any political subdivision.~~

~~(b) Thirty per cent may be deducted and retained by the organization for the organization's expenses in conducting the instant bingo game.~~

~~(2) If a charitable organization does not retain the full percentage specified in division (B)(1)(b) of this section for the purposes specified in that division, the organization shall distribute the balance of the net profit not retained for that purpose to an organization described in division (Z)(1) of section 2915.01 of the Revised Code.~~

~~(3) A charitable organization other than a veteran's organization or fraternal organization is not required to itemize the charitable organization's expenses.~~

Sec. 2915.13. (A) A veteran's organization ~~or~~, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to sections 2915.01 to 2915.12 of the Revised Code may conduct instant bingo other than at a bingo session if all of the following apply:

(1) The veteran's organization ~~or~~, fraternal organization, or sporting organization limits the sale of instant bingo to ten consecutive hours per day for up to six days per week.

(2) The veteran's organization ~~or~~, fraternal organization, or sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.

(3) The veteran's organization ~~or~~, fraternal organization, or sporting organization is raising money for ~~a charitable~~ an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state and executes a written contract with the charitable that organization as required in division (B) of this section.

(B) If a veteran's organization ~~or~~, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to division (A) of this section is raising money for another ~~charitable~~ organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from

federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state, the veteran's organization ~~or~~, fraternal organization, or sporting organization shall execute a written contract with ~~a charitable~~ the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's ~~or~~, fraternal, or sporting organization will be distributing to the ~~charitable~~ organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state.

(C)(1) If a veteran's organization ~~or~~, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to division (A) of this section has been issued a liquor permit under Chapter 4303. of the Revised Code, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization ~~or~~, fraternal organization, or sporting organization violates a provision of sections 2915.01 to 2915.13 of the Revised Code.

(2) No veteran's organization ~~or~~, fraternal organization, or sporting organization that enters into a written contract pursuant to division (B) of this section shall violate any provision of Chapter 2915. of the Revised Code, or permit, aid, or abet any other person in violating any provision of Chapter 2915. of the Revised Code.

(D) A veteran's organization ~~or~~, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo to the ~~charitable~~ organization with which the veteran's organization ~~or~~, fraternal organization, or sporting organization has entered into a written contract.

(E) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony of the fifth degree.

Sec. 2917.41. (A) No person shall evade the payment of the known fares of a public transportation system.

(B) No person shall alter any transfer, pass, ticket, or token of a public transportation system with the purpose of evading the payment of fares or of defrauding the system.

(C) No person shall do any of the following while in any facility or on any vehicle of a public transportation system:

(1) Play sound equipment without the proper use of a private earphone;

(2) Smoke, eat, or drink in any area where the activity is clearly marked as being prohibited;

(3) Expectorate upon a person, facility, or vehicle.

(D) No person shall write, deface, draw, or otherwise mark on any facility or vehicle of a public transportation system.

(E) No person shall fail to comply with a lawful order of a public transportation system police officer, and no person shall resist, obstruct, or abuse a public transportation police officer in the performance of the officer's duties.

(F) Whoever violates this section is guilty of misconduct involving a public transportation system.

(1) Violation of division (A), ~~(B), or (E)~~ of this section is a misdemeanor of the fourth degree.

(2) Violation of division ~~(B)~~ of this section is a ~~misdemeanor of the fourth degree.~~

~~(3) Violation of division (C) or (E) of this section is a minor misdemeanor on a first offense. If a person previously has been convicted of or pleaded guilty to a violation of any division of this section or of a municipal ordinance that is substantially similar to any division of this section, violation of division (C) of this section is a misdemeanor of the fourth degree.~~

~~(4)~~(3) Violation of division (D) of this section is a misdemeanor of the third degree.

(G) Notwithstanding any other provision of law, seventy-five per cent of each fine paid to satisfy a sentence imposed for a violation of this section shall be deposited into the treasury of the county in which the violation occurred and twenty-five per cent shall be deposited with the county transit board, regional transit authority, or regional transit commission that operates the public transportation system involved in the violation, unless the board of county commissioners operates the public transportation system, in which case one hundred per cent of each fine shall be deposited into the treasury of the county.

(H) As used in this section, "public transportation system" means a county transit system operated in accordance with sections 306.01 to 306.13 of the Revised Code, a regional transit authority operated in accordance with sections 306.30 to 306.71 of the Revised Code, or a regional transit commission operated in accordance with sections 306.80 to 306.90 of the Revised Code.

Sec. 2921.13. (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.
- (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
- (8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
- (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
- (10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.
- (11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

(12) The statement is made in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) It is no defense to a charge under division (A)(4) of this section that the oath or affirmation was administered or taken in an irregular manner.

(D) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), or (13) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(F) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a

result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

Sec. 2923.35. (A)(1) With respect to property ordered forfeited under section 2923.32 of the Revised Code, with respect to any fine or civil penalty imposed in any criminal or civil proceeding under section 2923.32 or 2923.34 of the Revised Code, and with respect to any fine imposed for a violation of section 2923.01 of the Revised Code for conspiracy to violate section 2923.32 of the Revised Code, the court, upon petition of the prosecuting attorney, may do any of the following:

- (a) Authorize the prosecuting attorney to settle claims;
- (b) Award compensation to persons who provide information that results in a forfeiture, fine, or civil penalty under section 2923.32 or 2923.34 of the Revised Code;
- (c) Grant petitions for mitigation or remission of forfeiture, fines, or civil penalties, or restore forfeited property, imposed fines, or imposed civil penalties to persons injured by the violation;
- (d) Take any other action to protect the rights of innocent persons that is in the interest of justice and that is consistent with the purposes of sections 2923.31 to 2923.36 of the Revised Code.

(2) The court shall maintain an accurate record of the actions it takes under division (A)(1) of this section with respect to the property ordered forfeited or the fine or civil penalty. The record is a public record open for inspection under section 149.43 of the Revised Code.

(B)(1) After the application of division (A) of this section, any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code has a right to any property, or the proceeds of any property, criminally forfeited to the state pursuant to section 2923.32 of the Revised Code or against which any fine under that section or civil penalty under division (I) of section 2923.34 of the Revised Code may be imposed.

The right of any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, other than a prosecuting attorney performing official duties under that section, to forfeited property, property against which fines and civil penalties may be imposed, and the proceeds of that property is superior to any right of the state, a municipal corporation, or a county to the property or the proceeds of the property, if the civil action is brought within one hundred eighty days after the entry of a sentence of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (I) of section 2923.34 of the

Revised Code.

The right is limited to the total value of the treble damages, civil penalties, attorney's fees, and costs awarded to the prevailing party in an action pursuant to section 2923.34 of the Revised Code, less any restitution received by the person.

(2) If the aggregate amount of claims of persons who have prevailed in a civil action pursuant to section 2923.34 of the Revised Code against any one defendant is greater than the total value of the treble fines, civil penalties, and forfeited property paid by the person against whom the actions were brought, all of the persons who brought their actions within one hundred eighty days after the entry of a sentence or disposition of forfeiture or a fine pursuant to section 2923.32 of the Revised Code or the entry of a civil penalty pursuant to division (I) of section 2923.34 of the Revised Code, first shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property. After the persons who brought their actions within the specified one-hundred-eighty-day period have satisfied their claims out of the fines, civil penalties, and forfeited property, all other persons who prevailed in civil actions pursuant to section 2923.34 of the Revised Code shall receive a pro rata share of the total amount of the fines, civil penalties, and forfeited property that remains in the custody of the law enforcement agency or in the corrupt activity investigation and prosecution fund.

(C)(1) Subject to divisions (A) and (B) of this section and notwithstanding any contrary provision of section 2933.41 of the Revised Code, the prosecuting attorney shall order the disposal of property ordered forfeited in any proceeding under sections 2923.32 and 2923.34 of the Revised Code as soon as feasible, making due provisions for the rights of innocent persons, by any of the following methods:

(a) Transfer to any person who prevails in a civil action pursuant to section 2923.34 of the Revised Code, subject to the limit set forth in division (B)(1) of this section;

(b) Public sale;

(c) Transfer to a state governmental agency for official use;

(d) Sale or transfer to an innocent person;

(e) If the property is contraband and is not needed for evidence in any pending criminal or civil proceeding, pursuant to section 2933.41 or any other applicable section of the Revised Code.

(2) Any interest in personal or real property not disposed of pursuant to this division and not exercisable by, or transferable for value to, the state shall expire and shall not revert to the person found guilty of or adjudicated a delinquent child for a violation of section 2923.32 of the Revised Code.

No person found guilty of or adjudicated a delinquent child for a violation of that section and no person acting in concert with a person found guilty of or adjudicated a delinquent child for a violation of that section is eligible to purchase forfeited property from the state.

(3) Upon application of a person, other than the defendant, the adjudicated delinquent child, or a person acting in concert with or on behalf of either the defendant or the adjudicated delinquent child, the court may restrain or stay the disposal of the property pursuant to this division pending the conclusion of any appeal of the criminal case or delinquency case giving rise to the forfeiture or pending the determination of the validity of a claim to or interest in the property pursuant to division (E) of section 2923.32 of the Revised Code, if the applicant demonstrates that proceeding with the disposal of the property will result in irreparable injury, harm, or loss to the applicant.

(4) The prosecuting attorney shall maintain an accurate record of each item of property disposed of pursuant to this division, which record shall include the date on which each item came into the prosecuting attorney's custody, the manner and date of disposition, and, if applicable, the name of the person who received the item. The record shall not identify or enable the identification of the individual officer who seized the property, and the record is a public record open for inspection under section 149.43 of the Revised Code.

Each prosecuting attorney who disposes in any calendar year of any item of property pursuant to this division shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the prosecuting attorney pursuant to this division for that calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year following the calendar year covered by the reports, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(a) Indicates that the attorney general has received from prosecuting attorneys reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(D)(1)(a) Ten per cent of the proceeds of all property ordered forfeited by a juvenile court pursuant to section 2923.32 of the Revised Code shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (D)(1)(a) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state. The remaining ninety per cent of the proceeds shall be disposed of as provided in divisions (D)(1)(b) and (D)(2) of this section.

All of the proceeds of all property ordered forfeited by a court other than a juvenile court pursuant to section 2923.32 of the Revised Code shall be disposed of as provided in divisions (D)(1)(b) and (D)(2) of this section.

(b) The remaining proceeds of all property ordered forfeited pursuant to section 2923.32 of the Revised Code, after compliance with division (D)(1)(a) of this section when that division is applicable, and all fines and civil penalties imposed pursuant to sections 2923.32 and 2923.34 of the Revised Code shall be deposited into the state treasury and credited to the corrupt activity investigation and prosecution fund, which is hereby created.

(2) The proceeds, fines, and penalties credited to the corrupt activity investigation and prosecution fund pursuant to division (D)(1) of this section shall be disposed of in the following order:

(a) To a civil plaintiff in an action brought within the one-hundred-eighty-day time period specified in division (B)(1) of this section, subject to the limit set forth in that division;

(b) To the payment of the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and court costs;

(c) Except as otherwise provided in division (D)(2)(c) of this section, the remainder shall be paid to the law enforcement trust fund of the prosecuting attorney that is established pursuant to division (D)(1)(c) of section 2933.43 of the Revised Code and to the law enforcement trust fund

of the county sheriff that is established pursuant to that division if the county sheriff substantially conducted the investigation, to the law enforcement trust fund of a municipal corporation that is established pursuant to that division if its police department substantially conducted the investigation, to the law enforcement trust fund of a township that is established pursuant to that division if the investigation was substantially conducted by a township police department, township police district police force, or office of a township constable, or to the law enforcement trust fund of a park district created pursuant to section 511.18 or 1545.01 of the Revised Code that is established pursuant to that division if the investigation was substantially conducted by its park district police force or law enforcement department. The prosecuting attorney may decline to accept any of the remaining proceeds, fines, and penalties, and, if the prosecuting attorney so declines, they shall be applied to the fund described in division (D)(2)(c) of this section that relates to the appropriate law enforcement agency that substantially conducted the investigation.

If the state highway patrol substantially conducted the investigation, the director of budget and management shall transfer the remaining proceeds, fines, and penalties to the state highway patrol for deposit into the state highway patrol contraband, forfeiture, and other fund that is created by division (D)(1)(c) of section 2933.43 of the Revised Code. If the department of taxation substantially conducted the investigation, the director, after obtaining approval from the controlling board, shall transfer the remaining proceeds, fines, and penalties to the department for deposit into the department of taxation enforcement fund. If the controlling board does not approve deposit of the remaining proceeds, fines, and penalties into the department of taxation enforcement fund, the director shall transfer the remaining proceeds, fines, and penalties to the treasurer of state for deposit into the peace officer training commission fund created by division (D)(1)(c) of section 2933.43 of the Revised Code. If the state board of pharmacy substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the board for deposit into the board of pharmacy drug law enforcement fund that is created by division (B)(1) of section 4729.65 of the Revised Code. If a state law enforcement agency, other than the state highway patrol, the department of taxation, or the state board of pharmacy, substantially conducted the investigation, the director shall transfer the remaining proceeds, fines, and penalties to the treasurer of state for deposit into the peace officer training commission fund ~~that is created by division (D)(1)(c) of section 2933.43 of the Revised Code.~~

The remaining proceeds, fines, and penalties that are paid to a law enforcement trust fund or that are deposited into the state highway patrol contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or the peace officer training commission fund pursuant to division (D)(2)(c) of this section shall be allocated, used, and expended only in accordance with division (D)(1)(c) of section 2933.43 of the Revised Code, only in accordance with a written internal control policy adopted under division (D)(3) of that section, and, if applicable, only in accordance with division (B) of section 4729.65 of the Revised Code. The annual reports that pertain to the funds and that are required by divisions (D)(1)(c) and (3)(b) of section 2933.43 of the Revised Code also shall address the remaining proceeds, fines, and penalties that are paid or deposited into the funds pursuant to division (D)(2)(c) of this section.

(3) If more than one law enforcement agency substantially conducted the investigation, the court ordering the forfeiture shall equitably divide the remaining proceeds, fines, and penalties among the law enforcement agencies that substantially conducted the investigation, in the manner described in division (D)(2) of section 2933.43 of the Revised Code for the equitable division of contraband proceeds and forfeited moneys. The equitable shares of the proceeds, fines, and penalties so determined by the court shall be paid or deposited into the appropriate funds specified in division (D)(2)(c) of this section.

(E) As used in this section, "law enforcement agency" includes, but is not limited to, the state board of pharmacy and the department of taxation.

Sec. 2925.44. (A) If property is seized pursuant to section 2925.42 or 2925.43 of the Revised Code, it is deemed to be in the custody of the head of the law enforcement agency that seized it, and the head of that agency may do any of the following with respect to that property prior to its disposition in accordance with division (A)(4) or (B) of this section:

- (1) Place the property under seal;
- (2) Remove the property to a place that the head of that agency designates;
- (3) Request the issuance of a court order that requires any other appropriate municipal corporation, county, township, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, or state law enforcement officer or other officer to take custody of the property and, if practicable, remove it to an appropriate location for eventual disposition in accordance with division (B) of this section;
- (4)(a) Seek forfeiture of the property pursuant to federal law. If the head

of that agency seeks its forfeiture pursuant to federal law, the law enforcement agency shall deposit, use, and account for proceeds from a sale of the property upon its forfeiture, proceeds from another disposition of the property upon its forfeiture, or forfeited moneys it receives, in accordance with the applicable federal law and otherwise shall comply with that law.

(b) If the state highway patrol seized the property and if the superintendent of the state highway patrol seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall deposit into the state highway patrol contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The state highway patrol shall use and account for that interest or other earnings in accordance with the applicable federal law.

(c) If the investigative unit of the department of public safety seized the property and if the director of public safety seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall deposit into the department of public safety investigative unit contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(d) If the enforcement division of the department of taxation seized the property and if the tax commissioner seeks its forfeiture pursuant to federal law, the appropriate governmental officials shall, after obtaining approval from the controlling board, deposit into the department of taxation enforcement fund all interest or other earnings derived from the investment of the proceeds from a sale of the property upon its forfeiture, the proceeds from another disposition of the property upon its forfeiture, or the forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law. If the controlling board does not approve deposit of interest or other earnings into the department of taxation enforcement fund, the appropriate governmental officials shall pay the interest or other earnings to the treasurer of state for deposit into the peace officer training commission fund.

(e) Division (B) of this section and divisions (D)(1) to (3) of section 2933.43 of the Revised Code do not apply to proceeds or forfeited moneys received pursuant to federal law or to the interest or other earnings that are derived from the investment of proceeds or forfeited moneys received

pursuant to federal law and that are described in division (A)(4)(b) or (d) of this section.

(B) In addition to complying with any requirements imposed by a court pursuant to section 2925.42 or 2925.43 of the Revised Code, and the requirements imposed by those sections, in relation to the disposition of property forfeited to the state under either of those sections, the prosecuting attorney who is responsible for its disposition shall dispose of the property as follows:

(1) Any vehicle, as defined in section 4501.01 of the Revised Code, that was used in a felony drug abuse offense or in an act that, if committed by an adult, would be a felony drug abuse offense shall be given to the law enforcement agency of the municipal corporation or county in which the offense occurred if that agency desires to have the vehicle, except that, if the offense occurred in a township or in a park district created pursuant to section 511.18 or 1545.01 of the Revised Code and a law enforcement officer employed by the township or the park district was involved in the seizure of the vehicle, the vehicle may be given to the law enforcement agency of that township or park district if that agency desires to have the vehicle, and except that, if the state highway patrol made the seizure of the vehicle, the vehicle may be given to the state highway patrol if it desires to have the vehicle.

(2) Any drug paraphernalia that was used, possessed, sold, or manufactured in a violation of section 2925.14 of the Revised Code that would be a felony drug abuse offense or in a violation of that section committed by a juvenile that, if committed by an adult, would be a felony drug abuse offense, may be given to the law enforcement agency of the municipal corporation or county in which the offense occurred if that agency desires to have and can use the drug paraphernalia, except that, if the offense occurred in a township or in a park district created pursuant to section 511.18 or 1545.01 of the Revised Code and a law enforcement officer employed by the township or the park district was involved in the seizure of the drug paraphernalia, the drug paraphernalia may be given to the law enforcement agency of that township or park district if that agency desires to have and can use the drug paraphernalia. If the drug paraphernalia is not so given, it shall be disposed of by sale pursuant to division (B)(8) of this section or disposed of in another manner that the court that issued the order of forfeiture considers proper under the circumstances.

(3) Drugs shall be disposed of pursuant to section 3719.11 of the Revised Code or placed in the custody of the secretary of the treasury of the United States for disposal or use for medical or scientific purposes under

applicable federal law.

(4) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use, or as museum pieces or collectors' items, may be disposed of by sale pursuant to division (B)(8) of this section. Other firearms and dangerous ordnance shall be destroyed by a law enforcement agency or shall be sent to the bureau of criminal identification and investigation for destruction by it. As used in this division, "firearms" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(5) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that purpose. Other computers, computer networks, computer systems, and computer software shall be disposed of by sale pursuant to division (B)(8) of this section or disposed of in another manner that the court that issued the order of forfeiture considers proper under the circumstances. As used in this division, "computers," "computer networks," "computer systems," and "computer software" have the same meanings as in section 2913.01 of the Revised Code.

(6) Obscene materials shall be destroyed.

(7) Beer, intoxicating liquor, and alcohol shall be disposed of in accordance with division (D)(4) of section 2933.41 of the Revised Code.

(8) In the case of property not described in divisions (B)(1) to (7) of this section and of property described in those divisions but not disposed of pursuant to them, the property shall be sold in accordance with division (B)(8) of this section or, in the case of forfeited moneys, disposed of in accordance with division (B)(8) of this section. If the property is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the property to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the property, the forfeiture proceeding or civil action, and, if any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after compliance with division (B)(8)(a) of this section, to the payment of the value of any legal right, title, or interest in the property that is possessed by a person who, pursuant to division (F) of section 2925.42 of the Revised Code or division (E) of section 2925.43 of the Revised Code, established the

validity of and consequently preserved that legal right, title, or interest, including, but not limited to, any mortgage, perfected or other security interest, or other lien in the property. The value of these rights, titles, or interests shall be paid according to their record or other order of priority.

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (B)(8)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (B)(8)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to appropriate funds in accordance with divisions (D)(1)(c) and (2) of section 2933.43 of the Revised Code. The remaining proceeds or forfeited moneys so deposited shall be used only for the purposes authorized by those divisions and division (D)(3)(a)(ii) of that section.

(C)(1) Sections 2925.41 to 2925.45 of the Revised Code do not preclude a financial institution that possessed a valid mortgage, security interest, or lien that is not satisfied prior to a sale under division (B)(8) of this section or following a sale by application of division (B)(8)(b) of this section, from commencing a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor if the financial institution otherwise would have been entitled to do so in this or another state.

(2) Any law enforcement agency that obtains any vehicle pursuant to division (B)(1) of this section shall take the vehicle subject to the outstanding amount of any security interest or lien that attaches to the vehicle.

(3) Nothing in this section impairs a mortgage, security interest, lien, or other interest of a financial institution in property that was the subject of a forfeiture order under section 2925.42 or 2925.43 of the Revised Code and that was sold or otherwise disposed of in a manner that does not conform to the requirements of division (B) of this section, or any right of a financial

institution of that nature to commence a civil action in any appropriate court in this or another state to obtain a deficiency judgment against the debtor.

(4) Following the sale under division (B)(8) of this section of any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to the purchaser of the property. Additionally, if, in a disposition of property pursuant to division (B) of this section, the state or a political subdivision is given any property that is required to be titled or registered under the law of this state, the prosecuting attorney responsible for the disposition of the property shall cause the state to issue an appropriate certificate of title or registration to itself or to the political subdivision.

(D) Property that has been forfeited to the state pursuant to an order of criminal forfeiture under section 2925.42 of the Revised Code or an order of civil forfeiture under section 2925.43 of the Revised Code shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to a felony drug abuse offense or upon any juvenile who is found by a juvenile court to be a delinquent child for an act that, if committed by an adult, would be a felony drug abuse offense.

(E) Sections 2925.41 to 2925.45 of the Revised Code do not prohibit a law enforcement officer from seeking the forfeiture of contraband associated with a felony drug abuse offense pursuant to section 2933.43 of the Revised Code.

Sec. 2929.38. (A) A board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility described in division (A) of section 2929.37 of the Revised Code, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, to pay a reasonable fee for any medical or dental treatment or service requested by and provided to that prisoner, and to pay the fee for a random drug test assessed under division (E) of section 341.26, and division (E) of section 753.33 of the Revised Code. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided. No prisoner confined in the local detention facility shall be denied any necessary medical care because of inability to pay the fees.

(B) Upon assessment of a one-time reception fee as described in

division (A) of this section, the provision of the requested medical treatment or service, or the assessment of a fee for a random drug test, payment of the required fee may be automatically deducted from the prisoner's inmate account in the business office of the local detention facility in which the prisoner is confined. If there is no money in the account, a deduction may be made at a later date during the prisoner's confinement if the money becomes available in the account. If, after release, the prisoner has an unpaid balance of those fees, the sheriff, legislative authority of the municipal corporation, corrections commission, judicial corrections board, or other entity that operates the local detention facility described in division (A) of section 2929.37 of the Revised Code may bill the prisoner for the payment of the unpaid fees. Fees received for medical or dental treatment or services shall be paid to the commissary fund, if one exists for the facility, or if no commissary fund exists, to the general fund of the treasury of the political subdivision that incurred the expenses, in the same proportion as those expenses were borne by the political subdivision. Fees received for medical treatment or services that are placed in the commissary fund under this division shall be used for the same purposes as profits from the commissary fund, except that they shall not be used to pay any salary or benefits of any person who works in or is employed for the sole purpose of providing service to the commissary.

(C) Any fee paid by a person under this section shall be deducted from any medical or dental costs that the person is ordered to reimburse under section 2929.36 of the Revised Code or to repay under a policy adopted under section 2929.37 of the Revised Code.

(D) As used in this section, "inmate account" has the same meaning as in section 2969.21 of the Revised Code.

Sec. 2933.43. (A)(1) Except as provided in this division or in section 2913.34 or sections 2923.44 to 2923.47 or 2925.41 to 2925.45 of the Revised Code, a law enforcement officer shall seize any contraband that has been, is being, or is intended to be used in violation of division (A) of section 2933.42 of the Revised Code. A law enforcement officer shall seize contraband that is a watercraft, motor vehicle, or aircraft and that has been, is being, or is intended to be used in violation of division (A) of section 2933.42 of the Revised Code only if the watercraft, motor vehicle, or aircraft is contraband because of its relationship to an underlying criminal offense that is a felony.

Additionally, a law enforcement officer shall seize any watercraft, motor vehicle, aircraft, or other personal property that is classified as contraband under division (B) of section 2933.42 of the Revised Code if the

underlying offense involved in the violation of division (A) of that section that resulted in the watercraft, motor vehicle, aircraft, or personal property being classified as contraband, is a felony.

(2) If a law enforcement officer seizes property that is titled or registered under law, including a motor vehicle, pursuant to division (A)(1) of this section, the officer or the officer's employing law enforcement agency shall notify the owner of the seizure. The notification shall be given to the owner at the owner's last known address within seventy-two hours after the seizure, and may be given orally by any means, including telephone, or by certified mail, return receipt requested.

If the officer or the officer's agency is unable to provide the notice required by this division despite reasonable, good faith efforts to do so, the exercise of the reasonable, good faith efforts constitutes fulfillment of the notice requirement imposed by this division.

(B)(1) A motor vehicle seized pursuant to division (A)(1) of this section and the contents of the vehicle may be retained for a reasonable period of time, not to exceed seventy-two hours, for the purpose of inspection, investigation, and the gathering of evidence of any offense or illegal use.

At any time prior to the expiration of the seventy-two-hour period, the law enforcement agency that seized the motor vehicle may petition the court of common pleas of the county that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture for an extension of the seventy-two-hour period if the motor vehicle or its contents are needed as evidence or if additional time is needed for the inspection, investigation, or gathering of evidence. Upon the filing of such a petition, the court immediately shall schedule a hearing to be held at a time as soon as possible after the filing, but in no event at a time later than the end of the next business day subsequent to the day on which the petition was filed, and upon scheduling the hearing, immediately shall notify the owner of the vehicle, at the address at which notification of the seizure was provided under division (A) of this section, of the date, time, and place of the hearing. If the court, at the hearing, determines that the vehicle or its contents, or both, are needed as evidence or that additional time is needed for the inspection, investigation, or gathering of evidence, the court may grant the petition and issue an order authorizing the retention of the vehicle or its contents, or both, for an extended period as specified by the court in its order. An order extending a period of retention issued under this division may be renewed.

If no petition for the extension of the initial seventy-two-hour period has been filed, prior to the expiration of that period, under this division, if the

vehicle was not in the custody and control of the owner at the time of its seizure, and if, at the end of that seventy-two-hour period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the law enforcement agency that seized the vehicle may require proof of ownership of the vehicle, proof of ownership or legal possession of the contents, and an affidavit of the owner that the owner neither knew of nor expressly or impliedly consented to the use of the vehicle that resulted in its forfeiture as conditions precedent to release. If a petition for the extension of the initial seventy-two-hour period has been filed, prior to the expiration of that period, under this division but the court does not grant the petition, if the vehicle was not in the custody and control of the owner at the time of its seizure, and if, at the end of that seventy-two-hour period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the court may require the proof and affidavit described in the preceding sentence as conditions precedent to release. If the initial seventy-two-hour period has been extended under this division, the vehicle and its contents to which the extension applies may be retained in accordance with the extension order. If, at the end of that extended period, the owner of the vehicle has not been charged with an offense or administrative violation that includes the use of the vehicle as an element and has not been charged with any other offense or administrative violation in the actual commission of which the motor vehicle was used, and if the vehicle was not in the custody and control of the owner at the time of its seizure, the vehicle and its contents shall be released to its owner or the owner's agent, provided that the court may require the proof and affidavit described in the third preceding sentence as conditions precedent to release. In cases in which the court may require proof and affidavits as conditions precedent to release, the court also may require the posting of a bond, with sufficient sureties approved by the court, in an amount equal to the value of the property to be released, as determined by the court, and conditioned upon the return of the property to the court if it is forfeited under this section, as a further condition to release. If, at the end of the initial seventy-two-hour period or at the end of any extended period

granted under this section, the owner has been charged with an offense or administrative violation that includes the use of the vehicle as an element or has been charged with another offense or administrative violation in the actual commission of which the motor vehicle was used, or if the vehicle was in the custody and control of the owner at the time of its seizure, the vehicle and its contents shall be retained pending disposition of the charge, provided that upon the filing of a motion for release by the owner, if the court determines that the motor vehicle or its contents, or both, are not needed as evidence in the underlying criminal case or administrative proceeding, the court may permit the release of the property that is not needed as evidence to the owner; as a condition precedent to a release of that nature, the court may require the owner to execute a bond with the court. Any bond so required shall be in an amount equal to the value of the property to be released, as determined by the court, shall have sufficient sureties approved by the court, and shall be conditioned upon the return of the property to the court to which it is forfeited under this section.

The final disposition of a motor vehicle seized pursuant to division (A)(1) of this section shall be determined in accordance with division (C) of this section.

(2) Pending a hearing pursuant to division (C) of this section, and subject to divisions (B)(1) and (C) of this section, any property lawfully seized pursuant to division (A) of this section because it was contraband of a type described in division (A)(13)(b), (d), (e), (f), (g), (h), (i), or (j) of section 2901.01 of the Revised Code shall not be subject to replevin or other action in any court and shall not be subject to release upon request of the owner, and no judgment shall be enforced against the property. Pending the hearing, and subject to divisions (B)(1) and (C) of this section, the property shall be kept in the custody of the law enforcement agency responsible for its seizure.

Pending a hearing pursuant to division (C) of this section, and notwithstanding any provisions of division (B)(1) or (C) of this section to the contrary, any property lawfully seized pursuant to division (A) of this section because it was contraband of a type described in division (A)(13)(a) or (c) of section 2901.01 of the Revised Code shall not be subject to replevin or other action in any court and shall not be subject to release upon request of the owner, and no judgment shall be enforced against the property. Pending the hearing, and notwithstanding any provisions of division (B)(1) or (C) of this section to the contrary, the property shall be kept in the custody of the law enforcement agency responsible for its seizure.

A law enforcement agency that seizes property under division (A) of

this section because it was contraband of any type described in division (A)(13) of section 2901.01 or division (B) of section 2933.42 of the Revised Code shall maintain an accurate record of each item of property so seized, which record shall include the date on which each item was seized, the manner and date of its disposition, and if applicable, the name of the person who received the item; however, the record shall not identify or enable the identification of the individual officer who seized the item. The record of property of that nature that no longer is needed as evidence shall be open to public inspection during the agency's regular business hours. Each law enforcement agency that, during any calendar year, seizes property under division (A) of this section because it was contraband shall prepare a report covering the calendar year that cumulates all of the information contained in all of the records kept by the agency pursuant to this division for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

- (a) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

- (b) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

- (c) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(C) The prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who has responsibility for the prosecution of the underlying criminal case or administrative proceeding, or the attorney general if the attorney general has that responsibility, shall file a petition for the forfeiture, to the seizing law enforcement agency of the contraband seized pursuant to division (A) of this section. The petition shall be filed in the court that has jurisdiction over the underlying criminal case or administrative proceeding involved in the forfeiture. If the property was seized on the basis of both a criminal violation and an administrative regulation violation, the petition shall be filed by the officer and in the court

that is appropriate in relation to the criminal case.

The petitioner shall conduct or cause to be conducted a search of the appropriate public records that relate to the seized property for the purpose of determining, and shall make or cause to be made reasonably diligent inquiries for the purpose of determining, any person having an ownership or security interest in the property. The petitioner then shall give notice of the forfeiture proceedings by personal service or by certified mail, return receipt requested, to any persons known, because of the conduct of the search, the making of the inquiries, or otherwise, to have an ownership or security interest in the property, and shall publish notice of the proceedings once each week for two consecutive weeks in a newspaper of general circulation in the county in which the seizure occurred. The notices shall be personally served, mailed, and first published at least four weeks before the hearing. They shall describe the property seized; state the date and place of seizure; name the law enforcement agency that seized the property and, if applicable, that is holding the property; list the time, date, and place of the hearing; and state that any person having an ownership or security interest in the property may contest the forfeiture.

If the property seized was determined by the seizing law enforcement officer to be contraband because of its relationship to an underlying criminal offense or administrative violation, no forfeiture hearing shall be held under this section unless the person pleads guilty to or is convicted of the commission of, or an attempt or conspiracy to commit, the offense or a different offense arising out of the same facts and circumstances or unless the person admits or is adjudicated to have committed the administrative violation or a different violation arising out of the same facts and circumstances; a forfeiture hearing shall be held in a case of that nature no later than forty-five days after the conviction or the admission or adjudication of the violation, unless the time for the hearing is extended by the court for good cause shown. The owner of any property seized because of its relationship to an underlying criminal offense or administrative violation may request the court to release the property to the owner. Upon receipt of a request of that nature, if the court determines that the property is not needed as evidence in the underlying criminal case or administrative proceeding, the court may permit the release of the property to the owner. As a condition precedent to a release of that nature, the court may require the owner to execute a bond with the court. Any bond so required shall have sufficient sureties approved by the court, shall be in a sum equal to the value of the property, as determined by the court, and shall be conditioned upon the return of the property to the court if the property is forfeited under this

section. Any property seized because of its relationship to an underlying criminal offense or administrative violation shall be returned to its owner if charges are not filed in relation to that underlying offense or violation within thirty days after the seizure, if charges of that nature are filed and subsequently are dismissed, or if charges of that nature are filed and the person charged does not plead guilty to and is not convicted of the offense or does not admit and is not found to have committed the violation.

If the property seized was determined by the seizing law enforcement officer to be contraband other than because of a relationship to an underlying criminal offense or administrative violation, the forfeiture hearing under this section shall be held no later than forty-five days after the seizure, unless the time for the hearing is extended by the court for good cause shown.

Where possible, a court holding a forfeiture hearing under this section shall follow the Rules of Civil Procedure. When a hearing is conducted under this section, property shall be forfeited upon a showing, by a preponderance of the evidence, by the petitioner that the person from which the property was seized was in violation of division (A) of section 2933.42 of the Revised Code. If that showing is made, the court shall issue an order of forfeiture. If an order of forfeiture is issued in relation to contraband that was released to the owner or the owner's agent pursuant to this division or division (B)(1) of this section, the order shall require the owner to deliver the property, by a specified date, to the law enforcement agency that employed the law enforcement officer who made the seizure of the property, and the court shall deliver a copy of the order to the owner or send a copy of it by certified mail, return receipt requested, to the owner at the address to which notice of the seizure was given under division (A)(2) of this section. Except as otherwise provided in this division, all rights, interest, and title to the forfeited contraband vests in the state, effective from the date of seizure.

No property shall be forfeited pursuant to this division if the owner of the property establishes, by a preponderance of the evidence, that the owner neither knew, nor should have known after a reasonable inquiry, that the property was used, or was likely to be used, in a crime or administrative violation. No bona fide security interest shall be forfeited pursuant to this division if the holder of the interest establishes, by a preponderance of the evidence, that the holder of the interest neither knew, nor should have known after a reasonable inquiry, that the property was used, or likely to be used, in a crime or administrative violation, that the holder of the interest did not expressly or impliedly consent to the use of the property in a crime or administrative violation, and that the security interest was perfected

pursuant to law prior to the seizure. If the holder of the interest satisfies the court that these requirements are met, the interest shall be preserved by the court. In a case of that nature, the court shall either order that the agency to which the property is forfeited reimburse the holder of the interest to the extent of the preserved interest or order that the holder be paid for the interest from the proceeds of any sale pursuant to division (D) of this section.

(D)(1) Contraband ordered forfeited pursuant to this section shall be disposed of pursuant to divisions (D)(1) to (7) of section 2933.41 of the Revised Code or, if the contraband is not described in those divisions, may be used, with the approval of the court, by the law enforcement agency that has custody of the contraband pursuant to division (D)(8) of that section. In the case of contraband not described in any of those divisions and of contraband not disposed of pursuant to any of those divisions, the contraband shall be sold in accordance with this division or, in the case of forfeited moneys, disposed of in accordance with this division. If the contraband is to be sold, the prosecuting attorney shall cause a notice of the proposed sale of the contraband to be given in accordance with law, and the property shall be sold, without appraisal, at a public auction to the highest bidder for cash. The proceeds of a sale and forfeited moneys shall be applied in the following order:

(a) First, to the payment of the costs incurred in connection with the seizure of, storage of, maintenance of, and provision of security for the contraband, the forfeiture proceeding, and, if any, the sale;

(b) Second, the remaining proceeds or forfeited moneys after compliance with division (D)(1)(a) of this section, to the payment of the balance due on any security interest preserved pursuant to division (C) of this section;

(c) Third, the remaining proceeds or forfeited moneys after compliance with divisions (D)(1)(a) and (b) of this section, as follows:

(i) If the forfeiture was ordered in a juvenile court, ten per cent to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified in the order of forfeiture. A juvenile court shall not certify an alcohol or drug addiction treatment program in the order of forfeiture unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (D)(1)(c)(i) of this section, unless the program is located in the county in which the court that orders the forfeiture is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those

counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state.

(ii) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecuting attorney and to the law enforcement trust fund of the county sheriff if the county sheriff made the seizure, to the law enforcement trust fund of a municipal corporation if its police department made the seizure, to the law enforcement trust fund of a township if the seizure was made by a township police department, township police district police force, or office of a township constable, to the law enforcement trust fund of a park district created pursuant to section 511.18 or 1545.01 of the Revised Code if the seizure was made by the park district police force or law enforcement department, to the state highway patrol contraband, forfeiture, and other fund if the state highway patrol made the seizure, to the department of public safety investigative unit contraband, forfeiture, and other fund if the investigative unit of the department of public safety made the seizure, to the department of taxation enforcement fund if the department of taxation made the seizure and the controlling board approves the deposit of the proceeds or forfeited moneys into the fund, to the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code if the board made the seizure, or to the treasurer of state for deposit into the peace officer training commission fund if the controlling board does not approve deposit of the proceeds or forfeited moneys into the department of taxation enforcement fund or if a state law enforcement agency, other than the state highway patrol, the investigative unit of the department of public safety, the enforcement division of the department of taxation, or the state board of pharmacy, made the seizure. The prosecuting attorney may decline to accept any of the remaining proceeds or forfeited moneys, and, if the prosecuting attorney so declines, the remaining proceeds or forfeited moneys shall be applied to the fund described in this division that relates to the law enforcement agency that made the seizure.

A law enforcement trust fund shall be established by the prosecuting attorney of each county who intends to receive any remaining proceeds or forfeited moneys pursuant to this division, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police

force or law enforcement department, for the purposes of this division. There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes described in this division.

Proceeds or forfeited moneys distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force or law enforcement department.

Additionally, no proceeds or forfeited moneys shall be allocated to or used by the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, or a county sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department unless the state highway patrol, department of public safety, department of taxation, state board of pharmacy, sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department has adopted a written internal control policy under division (D)(3) of this section that addresses the use of moneys received from the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or the appropriate law enforcement trust fund.

The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, and a law enforcement trust fund shall be expended only in accordance with the written internal control policy so adopted by the recipient, and, subject to the requirements specified in division (D)(3)(a)(ii) of this section, only to pay the costs of protracted or complex investigations or prosecutions, to provide reasonable technical training or expertise, to provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children

with respect to the dangers associated with the use of drugs of abuse, to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory, or for other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, department of taxation, prosecuting attorney, county sheriff, legislative authority, board of township trustees, or board of park commissioners determines to be appropriate. The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory. The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the department of taxation enforcement division, of the state board of pharmacy, of any political subdivision, or of any office of a prosecuting attorney or county sheriff that are unrelated to law enforcement.

Proceeds and forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

Any sheriff or prosecuting attorney who receives proceeds or forfeited moneys pursuant to this division during any calendar year shall file a report with the county auditor, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any municipal corporation police department that is allocated proceeds or forfeited moneys from a municipal corporation law enforcement trust fund pursuant to this division during any calendar year shall file a report with the legislative authority of the municipal corporation, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the

purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any township police department, township police district police force, or office of the constable that is allocated proceeds or forfeited moneys from a township law enforcement trust fund pursuant to this division during any calendar year shall file a report with the board of township trustees of the township, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. Any park district police force or law enforcement department that is allocated proceeds or forfeited moneys from a park district law enforcement trust fund pursuant to this division during any calendar year shall file a report with the board of park commissioners of the park district, no later than the thirty-first day of January of the next calendar year, verifying that the proceeds and forfeited moneys were expended only for the purposes authorized by this division and division (D)(3)(a)(ii) of this section and specifying the amounts expended for each authorized purpose. The superintendent of the state highway patrol shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the state highway patrol contraband, forfeiture, and other fund pursuant to this division during the prior calendar year were used by the state highway patrol during the prior calendar year only for the purposes authorized by this division and specifying the amounts expended for each authorized purpose. The executive director of the state board of pharmacy shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the board of pharmacy drug law enforcement fund during the prior calendar year were used only in accordance with section 4729.65 of the Revised Code and specifying the amounts expended for each authorized purpose. The peace officer training commission shall file a report with the attorney general, no later than the thirty-first day of January of each calendar year, verifying that proceeds and forfeited moneys paid into the peace officer training commission fund pursuant to this division during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training and specifying the amount used for that purpose.

The tax commissioner shall file a report with the attorney general, not later than the thirty-first day of January of each calendar year, verifying that

proceeds and forfeited moneys paid into the department of taxation enforcement fund pursuant to this division during the prior calendar year were used by the enforcement division during the prior calendar year to pay only the costs of enforcing the tax laws and specifying the amount used for that purpose.

(2) If more than one law enforcement agency is substantially involved in the seizure of contraband that is forfeited pursuant to this section, the court ordering the forfeiture shall equitably divide the proceeds or forfeited moneys, after calculating any distribution to the law enforcement trust fund of the prosecuting attorney pursuant to division (D)(1)(c) of this section, among any county sheriff whose office is determined by the court to be substantially involved in the seizure, any legislative authority of a municipal corporation whose police department is determined by the court to be substantially involved in the seizure, any board of township trustees whose law enforcement agency is determined by the court to be substantially involved in the seizure, any board of park commissioners of a park district whose police force or law enforcement department is determined by the court to be substantially involved in the seizure, the state board of pharmacy if it is determined by the court to be substantially involved in the seizure, the investigative unit of the department of public safety if it is determined by the court to be substantially involved in the seizure, the enforcement division of the department of taxation if it is determined by the court to be substantially involved in the seizure and the controlling board approves the deposit of the proceeds or forfeited moneys into the fund, and the state highway patrol if it is determined by the court to be substantially involved in the seizure. The proceeds or forfeited moneys shall be deposited in the respective law enforcement trust funds of the county sheriff, municipal corporation, township, and park district, the board of pharmacy drug law enforcement fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, or the state highway patrol contraband, forfeiture, and other fund, in accordance with division (D)(1)(c) of this section. If the controlling board does not approve deposit of the proceeds or forfeited moneys into the department of taxation enforcement fund or if a state law enforcement agency, other than the state highway patrol, the investigative unit of the department of public safety, the department of taxation, or the state board of pharmacy, is determined by the court to be substantially involved in the seizure, the state agency's equitable share of the proceeds and forfeited moneys shall be paid to the treasurer of state for deposit into the peace officer training commission fund.

(3)(a)(i) Prior to being allocated or using any proceeds or forfeited moneys out of the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, or a law enforcement trust fund under division (D)(1)(c) of this section, the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, and a county sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall adopt a written internal control policy that addresses the state highway patrol's, department of public safety's, department of taxation's, state board of pharmacy's, sheriff's, prosecuting attorney's, police department's, police force's, office of the constable's, or law enforcement department's use and disposition of all the proceeds and forfeited moneys received and that provides for the keeping of detailed financial records of the receipts of the proceeds and forfeited moneys, the general types of expenditures made out of the proceeds and forfeited moneys, the specific amount of each general type of expenditure, and the amounts, portions, and programs described in division (D)(3)(a)(ii) of this section. The policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

All financial records of the receipts of the proceeds and forfeited moneys, the general types of expenditures made out of the proceeds and forfeited moneys, the specific amount of each general type of expenditure by the state highway patrol, by the department of public safety, by the department of taxation, by the state board of pharmacy, and by a sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department, and the amounts, portions, and programs described in division (D)(3)(a)(ii) of this section are public records open for inspection under section 149.43 of the Revised Code. Additionally, a written internal control policy adopted under this division is a public record of that nature, and the state highway patrol, the department of public safety, the department of taxation, the state board of pharmacy, or the sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department that adopted it shall comply with it.

(ii) The written internal control policy of a county sheriff, prosecuting

attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of proceeds and forfeited moneys deposited during each calendar year in the sheriff's, prosecuting attorney's, municipal corporation's, township's, or park district's law enforcement trust fund pursuant to division (B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of section 2925.44 of the Revised Code, and at least twenty per cent of the proceeds and forfeited moneys exceeding one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner in which the described percentages are so used shall be determined by the sheriff, prosecuting attorney, department, police force, or office of the constable after the receipt and consideration of advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue. The financial records described in division (D)(3)(a)(i) of this section shall specify the amount of the proceeds and forfeited moneys deposited during each calendar year in the sheriff's, prosecuting attorney's, municipal corporation's, township's, or park district's law enforcement trust fund pursuant to division (B)(7)(c)(ii) of section 2923.46 or division (B)(8)(c)(ii) of section 2925.44 of the Revised Code, the portion of that amount that was used pursuant to the requirements of this division, and the community preventive education programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" includes, but is not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse.

(b) Each sheriff, prosecuting attorney, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department that receives in any calendar year any proceeds or forfeited moneys out of a law enforcement trust fund under division (D)(1)(c) of this section or uses any proceeds or forfeited moneys in its law enforcement trust fund in any calendar year shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the sheriff, prosecuting attorney, municipal corporation police department, township police department, township police

district police force, office of the constable, or park district police force or law enforcement department pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The superintendent of the state highway patrol shall prepare a report covering each calendar year in which the state highway patrol uses any proceeds or forfeited moneys in the state highway patrol contraband, forfeiture, and other fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the state highway patrol pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The department of public safety shall prepare a report covering each fiscal year in which the department uses any proceeds or forfeited moneys in the department of public safety investigative unit contraband, forfeiture, and other fund under division (D)(1)(c) of this section that cumulates all of the information contained in all of the public financial records kept by the department pursuant to division (D)(3)(a) of this section for that fiscal year. The department shall send a copy of the cumulative report to the attorney general no later than the first day of August in the fiscal year following the fiscal year covered by the report. The director of public safety shall include in the report a verification that proceeds and forfeited moneys paid into the department of public safety investigative unit contraband, forfeiture, and other fund under division (D)(1)(c) of this section during the preceding fiscal year were used by the department during that fiscal year only for the purposes authorized by that division and shall specify the amount used for each authorized purpose.

The tax commissioner shall prepare a report covering each calendar year in which the department of taxation enforcement division uses any proceeds or forfeited moneys in the department of taxation enforcement fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the department of taxation enforcement division pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, not later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

The executive director of the state board of pharmacy shall prepare a report covering each calendar year in which the board uses any proceeds or

forfeited moneys in the board of pharmacy drug law enforcement fund under division (D)(1)(c) of this section, that cumulates all of the information contained in all of the public financial records kept by the board pursuant to division (D)(3)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

- (i) Indicates that the attorney general has received from entities or persons specified in this division reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

- (ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

- (iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(4)(a) A law enforcement agency that receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys shall deposit, use, and account for the proceeds or forfeited moneys in accordance with, and otherwise comply with, the applicable federal law.

(b) If the state highway patrol receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials shall deposit into the state highway patrol contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the proceeds or forfeited moneys. The state highway patrol shall use and account for that interest or other earnings in accordance with the applicable federal law.

(c) If the investigative unit of the department of public safety receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials shall deposit into the department of public safety investigative unit contraband, forfeiture, and other fund all interest or other earnings derived from the investment of the

proceeds or forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law.

(d) If the tax commissioner receives pursuant to federal law proceeds from a sale of forfeited contraband, proceeds from another disposition of forfeited contraband, or forfeited contraband moneys, the appropriate governmental officials, after obtaining approval from the controlling board, shall deposit into the department of taxation enforcement fund all interest or other earnings derived from the investment of the proceeds or forfeited moneys. The department shall use and account for that interest or other earnings in accordance with the applicable federal law. If the controlling board does not approve deposit of the interest or other earnings into the department of taxation enforcement fund, the interest or other earnings shall be paid to the treasurer of state for deposit into the peace officer training commission fund.

(e) Divisions (D)(1) to (3) of this section do not apply to proceeds or forfeited moneys received pursuant to federal law or to the interest or other earnings that are derived from the investment of proceeds or forfeited moneys received pursuant to federal law and that are described in division (D)(4)(b) of this section.

(E) Upon the sale pursuant to this section of any property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration. If the state is vested with title pursuant to division (C) of this section and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Notwithstanding any provisions of this section to the contrary, any property that is lawfully seized in relation to a violation of section 2923.32 of the Revised Code shall be subject to forfeiture and disposition in accordance with sections 2923.32 to 2923.36 of the Revised Code; any property that is forfeited pursuant to section 2923.44 or 2923.45 of the Revised Code in relation to a violation of section 2923.42 of the Revised Code or in relation to an act of a juvenile that is a violation of section 2923.42 of the Revised Code may be subject to forfeiture and disposition in accordance with sections 2923.44 to 2923.47 of the Revised Code; and any property that is forfeited pursuant to section 2925.42 or 2925.43 of the Revised Code in relation to a felony drug abuse offense, as defined in section 2925.01 of the Revised Code, or in relation to an act that, if committed by an adult, would be a felony drug abuse offense of that nature, may be subject to forfeiture and disposition in accordance with sections 2925.41 to 2925.45 of the Revised Code or this section.

(G) Any failure of a law enforcement officer or agency, a prosecuting attorney, village solicitor, city director of law, or similar chief legal officer, a court, or the attorney general to comply with any duty imposed by this section in relation to any property seized or with any other provision of this section in relation to any property seized does not affect the validity of the seizure of the property, provided the seizure itself was made in accordance with law, and is not and shall not be considered to be the basis for the suppression of any evidence resulting from the seizure of the property, provided the seizure itself was made in accordance with law.

(H) Contraband that has been forfeited pursuant to division (C) of this section shall not be available for use to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying criminal offense or a different offense arising out of the same facts and circumstances.

Sec. 2935.36. (A) The prosecuting attorney may establish pre-trial diversion programs for adults who are accused of committing criminal offenses and whom the prosecuting attorney believes probably will not offend again. The prosecuting attorney may require, as a condition of an accused's participation in the program, the accused to pay a reasonable fee for supervision services that include, but are not limited to, monitoring and drug testing. The programs shall be operated pursuant to written standards approved by journal entry by the presiding judge or, in courts with only one judge, the judge of the court of common pleas and shall not be applicable to any of the following:

- (1) Repeat offenders or dangerous offenders;
- (2) Persons accused of an offense of violence, of a violation of section 2903.06, 2907.04, 2907.05, 2907.21, 2907.22, 2907.31, 2907.32, 2907.34, 2911.31, 2919.12, 2919.13, 2919.22, 2921.02, 2921.11, 2921.12, 2921.32, or 2923.20 of the Revised Code, or of a violation of section 2905.01, 2905.02, or 2919.23 of the Revised Code that, had it occurred prior to July 1, 1996, would have been a violation of section 2905.04 of the Revised Code as it existed prior to that date, with the exception that the prosecuting attorney may permit persons accused of any such offense to enter a pre-trial diversion program, if the prosecuting attorney finds any of the following:
 - (a) The accused did not cause, threaten, or intend serious physical harm to any person;
 - (b) The offense was the result of circumstances not likely to recur;
 - (c) The accused has no history of prior delinquency or criminal activity;
 - (d) The accused has led a law-abiding life for a substantial time before commission of the alleged offense;
 - (e) Substantial grounds tending to excuse or justify the alleged offense.

(3) Persons accused of a violation of Chapter 2925. or 3719. of the Revised Code;

(4) Drug dependent persons or persons in danger of becoming drug dependent persons, as defined in section 3719.011 of the Revised Code. However, this division does not affect the eligibility of such persons for intervention in lieu of conviction pursuant to section 2951.041 of the Revised Code.

(5) Persons accused of a violation of section 4511.19 of the Revised Code or a violation of any substantially similar municipal ordinance.

(B) An accused who enters a diversion program shall do all of the following:

(1) Waive, in writing and contingent upon the accused's successful completion of the program, the accused's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the accused, and arraignment, unless the hearing, indictment, or arraignment has already occurred;

(2) Agree, in writing, to the tolling while in the program of all periods of limitation established by statutes or rules of court, that are applicable to the offense with which the accused is charged and to the conditions of the diversion program established by the prosecuting attorney;

(3) Agree, in writing, to pay any reasonable fee for supervision services established by the prosecuting attorney.

(C) The trial court, upon the application of the prosecuting attorney, shall order the release from confinement of any accused who has agreed to enter a pre-trial diversion program and shall discharge and release any existing bail and release any sureties on recognizances and shall release the accused on a recognizance bond conditioned upon the accused's compliance with the terms of the diversion program. The prosecuting attorney shall notify every victim of the crime and the arresting officers of the prosecuting attorney's intent to permit the accused to enter a pre-trial diversion program. The victim of the crime and the arresting officers shall have the opportunity to file written objections with the prosecuting attorney prior to the commencement of the pre-trial diversion program.

(D) If the accused satisfactorily completes the diversion program, the prosecuting attorney shall recommend to the trial court that the charges against the accused be dismissed, and the court, upon the recommendation of the prosecuting attorney, shall dismiss the charges. If the accused chooses not to enter the prosecuting attorney's diversion program, or if the accused violates the conditions of the agreement pursuant to which the accused has been released, the accused may be brought to trial upon the charges in the

manner provided by law, and the waiver executed pursuant to division (B)(1) of this section shall be void on the date the accused is removed from the program for the violation.

(E) As used in this section:

(1) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that the person will commit another offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:

(a) Having been convicted of one or more offenses of violence and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense of violence;

(b) Having been convicted of one or more sexually oriented offenses as defined in section 2950.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those offenses, the person commits a subsequent sexually oriented offense;

(c) Having been convicted of one or more theft offenses as defined in section 2913.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those theft offenses, the person commits a subsequent theft offense;

(d) Having been convicted of one or more felony drug abuse offenses as defined in section 2925.01 of the Revised Code and having been imprisoned pursuant to sentence for one or more of those felony drug abuse offenses, the person commits a subsequent felony drug abuse offense;

(e) Having been convicted of two or more felonies and having been imprisoned pursuant to sentence for one or more felonies, the person commits a subsequent offense;

(f) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors and having been imprisoned pursuant to sentence for any such offense, the person commits a subsequent offense.

(2) "Dangerous offender" means a person who has committed an offense, whose history, character, and condition reveal a substantial risk that the person will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences.

Sec. 2949.091. (A)(1) The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the sum of ~~eleven~~ fifteen dollars as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. All such moneys collected during a month shall

be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund. The court shall not waive the payment of the additional ~~eleven~~ fifteen dollars court costs, unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

(2) The juvenile court, in which a child is found to be a delinquent child or a juvenile traffic offender for an act which, if committed by an adult, would be an offense other than a traffic offense that is not a moving violation, shall impose the sum of ~~eleven~~ fifteen dollars as costs in the case in addition to any other court costs that the court is required or permitted by law to impose upon the delinquent child or juvenile traffic offender. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer of state into the general revenue fund. The ~~eleven~~ fifteen dollars court costs shall be collected in all cases unless the court determines the juvenile is indigent and waives the payment of all court costs, or enters an order on its journal stating that it has determined that the juvenile is indigent, that no other court costs are to be taxed in the case, and that the payment of the ~~eleven~~ fifteen dollars court costs is waived.

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, the court shall add to the amount of the bail the ~~eleven~~ fifteen dollars required to be paid by division (A)(1) of this section. The ~~eleven~~ fifteen dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the ~~eleven~~ fifteen dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, who shall deposit it into the general revenue fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the ~~eleven~~ fifteen dollars to the person.

(C) No person shall be placed or held in a detention facility for failing to pay the additional ~~eleven~~ fifteen dollars court costs or bail that are required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" and "bail" have the same meanings as in section 2743.70 of the Revised Code.

(2) "Detention facility" has the same meaning as in section 2921.01 of

the Revised Code.

Sec. 3111.04. (A) An action to determine the existence or nonexistence of the father and child relationship may be brought by the child or the child's personal representative, the child's mother or her personal representative, a man alleged or alleging himself to be the child's father, the child support enforcement agency of the county in which the child resides if the child's mother is a recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, or the alleged father's personal representative.

(B) An agreement does not bar an action under this section.

(C) If an action under this section is brought before the birth of the child and if the action is contested, all proceedings, except service of process and the taking of depositions to perpetuate testimony, may be stayed until after the birth.

(D) A recipient of public assistance or of services under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall cooperate with the child support enforcement agency of the county in which a child resides to obtain an administrative determination pursuant to sections 3111.38 to 3111.54 of the Revised Code, or, if necessary, a court determination pursuant to sections 3111.01 to 3111.18 of the Revised Code, of the existence or nonexistence of a parent and child relationship between the father and the child. If the recipient fails to cooperate, the agency may commence an action to determine the existence or nonexistence of a parent and child relationship between the father and the child pursuant to sections 3111.01 to 3111.18 of the Revised Code.

(E) As used in this section, "public assistance" means medical assistance under Chapter 5111. of the Revised Code, assistance under Chapter 5107. of the Revised Code, ~~or~~ disability financial assistance under Chapter 5115. of the Revised Code, or disability medical assistance under Chapter 5115. of the Revised Code.

Sec. 3119.01. (A) As used in the Revised Code, "child support enforcement agency" means a child support enforcement agency designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated as a child support enforcement agency under section 307.981 of the Revised Code.

(B) As used in this chapter and Chapters 3121., 3123., and 3125. of the Revised Code:

(1) "Administrative child support order" means any order issued by a child support enforcement agency for the support of a child pursuant to section 3109.19 or 3111.81 of the Revised Code or former section 3111.211

of the Revised Code, section 3111.21 of the Revised Code as that section existed prior to January 1, 1998, or section 3111.20 or 3111.22 of the Revised Code as those sections existed prior to March 22, 2001.

(2) "Child support order" means either a court child support order or an administrative child support order.

(3) "Obligee" means the person who is entitled to receive the support payments under a support order.

(4) "Obligor" means the person who is required to pay support under a support order.

(5) "Support order" means either an administrative child support order or a court support order.

(C) As used in this chapter:

(1) "Combined gross income" means the combined gross income of both parents.

(2) "Court child support order" means any order issued by a court for the support of a child pursuant to Chapter 3115. of the Revised Code, section 2151.23, 2151.231, 2151.232, 2151.33, 2151.36, 2151.361, 2151.49, 3105.21, 3109.05, 3109.19, 3111.13, 3113.04, 3113.07, 3113.31, 3119.65, or 3119.70 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(3) "Court support order" means either a court child support order or an order for the support of a spouse or former spouse issued pursuant to Chapter 3115. of the Revised Code, section 3105.18, 3105.65, or 3113.31 of the Revised Code, or division (B) of former section 3113.21 of the Revised Code.

(4) "Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during a calendar year that exceed one hundred dollars.

(5) "Income" means either of the following:

(a) For a parent who is employed to full capacity, the gross income of the parent;

(b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent.

(6) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state, any health insuring corporation, and any legal entity that is self-insured and provides benefits to its employees or members.

(7) "Gross income" means, except as excluded in division (C)(7) of this section, the total of all earned and unearned income from all sources during a calendar year, whether or not the income is taxable, and includes income

from salaries, wages, overtime pay, and bonuses to the extent described in division (D) of section 3119.05 of the Revised Code; commissions; royalties; tips; rents; dividends; severance pay; pensions; interest; trust income; annuities; social security benefits, including retirement, disability, and survivor benefits that are not means-tested; workers' compensation benefits; unemployment insurance benefits; disability insurance benefits; benefits that are not means-tested and that are received by and in the possession of the veteran who is the beneficiary for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration; spousal support actually received; and all other sources of income. "Gross income" includes income of members of any branch of the United States armed services or national guard, including, amounts representing base pay, basic allowance for quarters, basic allowance for subsistence, supplemental subsistence allowance, cost of living adjustment, specialty pay, variable housing allowance, and pay for training or other types of required drills; self-generated income; and potential cash flow from any source.

"Gross income" does not include any of the following:

(a) Benefits received from means-tested government administered programs, including Ohio works first; prevention, retention, and contingency; means-tested veterans' benefits; supplemental security income; food stamps; disability financial assistance; or other assistance for which eligibility is determined on the basis of income or assets;

(b) Benefits for any service-connected disability under a program or law administered by the United States department of veterans' affairs or veterans' administration that are not means-tested, that have not been distributed to the veteran who is the beneficiary of the benefits, and that are in the possession of the United States department of veterans' affairs or veterans' administration;

(c) Child support received for children who were not born or adopted during the marriage at issue;

(d) Amounts paid for mandatory deductions from wages such as union dues but not taxes, social security, or retirement in lieu of social security;

(e) Nonrecurring or unsustainable income or cash flow items;

(f) Adoption assistance and foster care maintenance payments made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.

(8) "Nonrecurring or unsustainable income or cash flow item" means an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue

to receive on a regular basis. "Nonrecurring or unsustainable income or cash flow item" does not include a lottery prize award that is not paid in a lump sum or any other item of income or cash flow that the parent receives or expects to receive for each year for a period of more than three years or that the parent receives and invests or otherwise uses to produce income or cash flow for a period of more than three years.

(9)(a) "Ordinary and necessary expenses incurred in generating gross receipts" means actual cash items expended by the parent or the parent's business and includes depreciation expenses of business equipment as shown on the books of a business entity.

(b) Except as specifically included in "ordinary and necessary expenses incurred in generating gross receipts" by division (C)(9)(a) of this section, "ordinary and necessary expenses incurred in generating gross receipts" does not include depreciation expenses and other noncash items that are allowed as deductions on any federal tax return of the parent or the parent's business.

(10) "Personal earnings" means compensation paid or payable for personal services, however denominated, and includes wages, salary, commissions, bonuses, draws against commissions, profit sharing, vacation pay, or any other compensation.

(11) "Potential income" means both of the following for a parent who the court pursuant to a court support order, or a child support enforcement agency pursuant to an administrative child support order, determines is voluntarily unemployed or voluntarily underemployed:

(a) Imputed income that the court or agency determines the parent would have earned if fully employed as determined from the following criteria:

- (i) The parent's prior employment experience;
- (ii) The parent's education;
- (iii) The parent's physical and mental disabilities, if any;
- (iv) The availability of employment in the geographic area in which the parent resides;
- (v) The prevailing wage and salary levels in the geographic area in which the parent resides;
- (vi) The parent's special skills and training;
- (vii) Whether there is evidence that the parent has the ability to earn the imputed income;
- (viii) The age and special needs of the child for whom child support is being calculated under this section;
- (ix) The parent's increased earning capacity because of experience;

(x) Any other relevant factor.

(b) Imputed income from any nonincome-producing assets of a parent, as determined from the local passbook savings rate or another appropriate rate as determined by the court or agency, not to exceed the rate of interest specified in division (A) of section 1343.03 of the Revised Code, if the income is significant.

(12) "Schedule" means the basic child support schedule set forth in section 3119.021 of the Revised Code.

(13) "Self-generated income" means gross receipts received by a parent from self-employment, proprietorship of a business, joint ownership of a partnership or closely held corporation, and rents minus ordinary and necessary expenses incurred by the parent in generating the gross receipts. "Self-generated income" includes expense reimbursements or in-kind payments received by a parent from self-employment, the operation of a business, or rents, including company cars, free housing, reimbursed meals, and other benefits, if the reimbursements are significant and reduce personal living expenses.

(14) "Split parental rights and responsibilities" means a situation in which there is more than one child who is the subject of an allocation of parental rights and responsibilities and each parent is the residential parent and legal custodian of at least one of those children.

(15) "Worksheet" means the applicable worksheet that is used to calculate a parent's child support obligation as set forth in sections 3119.022 and 3119.023 of the Revised Code.

Sec. 3121.01. As used in this chapter:

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

(B) "Default" means any failure to pay under a support order that is an amount greater than or equal to the amount of support payable under the support order for one month.

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

(D) "Income" means any form of monetary payment, including personal earnings; workers' compensation payments; unemployment compensation benefits to the extent permitted by, and in accordance with, sections 3121.07 and 4141.284 of the Revised Code, and federal law governing the department of job and family services; pensions; annuities; allowances; private or governmental retirement benefits; disability or sick pay; insurance proceeds; lottery prize awards; federal, state, or local government benefits to

the extent that the benefits can be withheld or deducted under the law governing the benefits; any form of trust fund or endowment; lump sum payments, including a one-time pay supplement of one hundred fifty dollars or more paid under section 124.183 of the Revised Code; and any other payment in money.

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

Sec. 3123.952. A child support enforcement agency may submit the name of a delinquent obligor to the office of child support for inclusion on a poster only if all of the following apply:

(A) The obligor is subject to a support order and there has been an attempt to enforce the order through a public notice, a wage withholding order, a lien on property, a financial institution deduction order, or other court-ordered procedures.

(B) The department of job and family services reviewed the obligor's records and confirms the child support enforcement agency's finding that the obligor's name and photograph may be submitted to be displayed on a poster.

(C) The agency does not know or is unable to verify the obligor's whereabouts.

(D) The obligor is not a participant in Ohio works first or the prevention, retention, and contingency program or a recipient of disability financial assistance, supplemental security income, or food stamps.

(E) The child support enforcement agency does not have evidence that the obligor has filed for protection under the federal Bankruptcy Code, 11 U.S.C.A. 101, as amended.

(F) The obligee gave written authorization to the agency to display the obligor on a poster.

(G) A legal representative of the agency and a child support enforcement administrator reviewed the case.

(H) The agency is able to submit to the department a description and

photograph of the obligor, a statement of the possible locations of the obligor, and any other information required by the department.

Sec. 3125.12. Each child support enforcement agency shall enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with ~~the partnership~~ each fiscal agreement the board enters into under section 307.98 and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the agency.

Sec. 3301.0710. The state board of education shall adopt rules establishing a statewide program to test student achievement. The state board shall ensure that all tests administered under the testing program are aligned with the academic standards and model curricula adopted by the state board and are created with input from Ohio parents, Ohio classroom teachers, Ohio school administrators, and other Ohio school personnel pursuant to section 3301.079 of the Revised Code.

The testing program shall be designed to ensure that students who receive a high school diploma demonstrate at least high school levels of achievement in reading, writing, mathematics, science, and social studies.

(A)(1) The state board shall prescribe all of the following:

(a) A statewide achievement test designed to measure the level of reading skill expected at the end of third grade;

(b) Two statewide achievement tests, one each designed to measure the level of writing and mathematics skill expected at the end of fourth grade;

(c) Two statewide achievement tests, one each designed to measure the level of science and social studies skill expected at the end of fifth grade;

(d) Three statewide achievement tests, one each designed to measure the level of reading, writing, and mathematics skill expected at the end of seventh grade;

(e) Two statewide achievement tests, one each designed to measure the level of science and social studies skill expected at the end of eighth grade.

(2) The state board shall determine and designate at least four ranges of scores on each of the achievement tests described in division (A)(1) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

(a) An advanced level of skill;

(b) A proficient level of skill;

(c) A basic level of skill;

(d) A below basic level of skill.

(B) The tests prescribed under this division shall collectively be known

as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement tests, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade, and shall determine and designate the score on each such test that shall be deemed to demonstrate that any student attaining such score has achieved at least a proficient level of skill appropriate for tenth grade.

The state board may enter into a reciprocal agreement with the appropriate body or agency of any other state that has similar statewide achievement testing requirements for receiving high school diplomas, under which any student who has met an achievement testing requirement of one state is recognized as having met the similar achievement testing requirement of the other state for purposes of receiving a high school diploma. For purposes of this section and sections 3301.0711 and 3313.61 of the Revised Code, any student enrolled in any public high school in this state who has met an achievement testing requirement specified in a reciprocal agreement entered into under this division shall be deemed to have attained at least the applicable score designated under this division on each test required by this division that is specified in the agreement.

(C) The state board shall annually designate as follows the dates on which the tests prescribed under this section shall be administered:

(1) For the test prescribed under division (A)(1)(a) of this section, as follows:

- (a) One date prior to the thirty-first day of December each school year;
- (b) At least one date of each school year that is not earlier than Monday of the week containing the eighth day of March;
- (c) One date during the summer for students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) For the tests prescribed under divisions (A)(1)(b), (c), (d), and (e) of this section, at least one date of each school year that is not earlier than Monday of the week containing the eighth day of March;

(3) For the tests prescribed under division (B) of this section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty-first day of December and at least one date subsequent to that date but prior to the thirty-first day of March of each school year for eleventh and twelfth grade students.

(D) In prescribing test dates pursuant to division (C)(3) of this section, the board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and

twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.

(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code.

(F) The state board shall prescribe a practice version of each Ohio graduation test described in division (B) of this section that is of comparable length to the actual test.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any test administered pursuant to division (B)(8) of this section. In furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section 3301.0710 of the Revised Code, the department shall make the tests available on its website for reproduction by districts. In awarding contracts for grading tests, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(b) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(3) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the

fifth grade.

(4) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(5) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(6) Except as provided in division (B)(7) of this ~~sections~~ section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that test designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(7) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(6)(b) of this section.

(8) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2004.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a

test unless no reasonable accommodation can be made to enable the student to take the test.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the date scheduled, but any such test shall be administered to such excused student not later than nine days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "English-limited student" means a student whose primary language is not English, who has been enrolled in United States schools for less than three full school years, and who within the school year has been identified, in accordance with criteria provided by the department of education, as lacking adequate proficiency in English for a test under this section to produce valid results with respect to that student's academic progress.

A school district board or governing authority of a nonpublic school may grant a temporary, one-year exemption from any test administered under this section to an English-limited student. Not more than three temporary one-year exemptions may be granted to any student. During any school year in which a student is excused from taking one or more tests administered under this section, the school district shall assess that student's progress in learning English, in accordance with procedures approved by the department.

No district board or governing authority of a chartered nonpublic school shall prohibit an English-limited student from taking a test under this

section.

(D) This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.

(1) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to ~~the effective date of this amendment~~ September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on a proficiency test or a score in the basic range on an achievement test. ~~This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.~~

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has been declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice tests. If any achievement tests in reading and math are adopted by the state board of education for administration in the eighth grade, the district also shall consider the scores received by ninth grade students on those tests in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose test results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio Graduation Tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those

times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on any test administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take any test administered under this section or make up such test as provided by division (C)(2) of this section and who is not exempted from the requirement to take the test under division (C)(1) or (3) of this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) Not later than sixty days after any administration of any test prescribed by section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test. For any tests administered under this section by a joint vocational school district, the department shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under this section and shall adopt rules to ensure the protection of student confidentiality at all times.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any test prescribed under this

section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(6)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by section 3301.0710 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the basic range on any of the tests described by division (A)(1)(b), (c), (d), or (e) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) All tests required by section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the test was administered.

(2) The department may field test proposed test questions with samples of students to determine the validity, reliability, or appropriateness of test questions for possible inclusion in a future year's test.

Field test questions shall not be considered in computing test scores for individual students. Field test questions may be included as part of the administration of any test required by section 3301.0710 of the Revised Code.

(3) Any field test question administered under division (N)(2) of this section shall not be a public record. Such field test questions shall be redacted from any tests which are released as a public record pursuant to division (N)(1) of this section.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for handicapped students, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is

limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of handicap. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed by the testing of student achievement under sections 3301.0710 and 3301.0711 of the Revised Code;

(e) The number of students designated as having a handicapping condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

(j) The percentage of students receiving corporal punishment;

(k) Dropout rates;

(l) Rates of retention in grade;

(m) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

(n) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements;

(o) Results of diagnostic assessments administered to kindergarten

students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the

student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional

services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the data acquisition site operated under section 3301.075 of the Revised Code and is authorized by the district or acquisition site to

have access to such information. The guidelines may require school districts to provide the social security numbers of individual staff members.

(2) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section.

Individual student data shall be reported to the department through the data acquisition sites utilizing the code but at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district or community school in which the student enrolls and shall remove all references to the code in any records retained in the district or school that pertain to any student no longer enrolled. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.358 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats.

These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(e) of this section so that the academic achievement levels of students who are excused from taking any such test pursuant to division (C)(1) of section 3301.0711 of the Revised Code are distinguished from the academic achievement levels of students who are not so excused.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L) Any time the department of education determines that a school district has taken any of the actions described under division (L)(1), (2), or (3) of this section, it shall make a report of the actions of the district, send a copy of the report to the superintendent of such school district, and maintain a copy of the report in its files:

(1) The school district fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;

(2) The school district fails to meet any deadline established pursuant to this section for the correction of any data reported to the education management information system;

(3) The school district reports data to the education management information system in a condition, as determined by the department, that indicates that the district did not make a good faith effort in reporting the data to the system.

Any report made under this division shall include recommendations for corrective action by the school district.

Upon making a report for the first time in a fiscal year, the department shall withhold ten per cent of the total amount due during that fiscal year under Chapter 3317. of the Revised Code to the school district to which the report applies. Upon making a second report in a fiscal year, the department shall withhold an additional twenty per cent of such total amount due during that fiscal year to the school district to which the report applies. The department shall not release such funds unless it determines that the district has taken corrective action. However, no such release of funds shall occur if the district fails to take corrective action within forty-five days of the date upon which the report was made by the department.

~~(M) The department of education, after consultation with the Ohio education computer network, may provide at no cost to school districts uniform computer software for use in reporting data to the education management information system, provided that no school district shall be required to utilize such software to report data to the education management information system if such district is so reporting data in an accurate, complete, and timely manner in a format compatible with that required by the education management information system. No data acquisition site or school district shall acquire, change, or update its student administration~~

software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(o) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (D)(5) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.31. As used in this section and sections 3301.32 to 3301.38 of the Revised Code:

(A) "Eligible individual" means an individual eligible for Title IV-A services under a head start program.

(B) "Head start agency" means any or all of the following:

(1) An entity in this state that has been approved to be an agency for purposes of the "Head Start Act," 95 Stat. 489 (1981), 42 U.S.C. 9831, as amended;

(2) A Title IV-A head start agency;

(3) A Title IV-A head start plus agency.

(C) "Head start program" has the same meaning as in section 5104.01 of the Revised Code.

(D) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C.A 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).

(E) "Title IV-A head start agency" means an agency receiving funds to

operate a head start program as prescribed in section 3301.34 of the Revised Code.

(F) "Title IV-A head start plus agency" means an agency receiving funds to operate a head start program as prescribed in section 3301.35 of the Revised Code.

Sec. 3301.33. (A) There is hereby established the Title IV-A head start program to provide head start program services to eligible individuals.

(B) In accordance with the interagency agreement described in division (C) of this section, there is hereby established the Title IV-A head start plus program to provide year-long head start program services and child care services to eligible individuals.

(C) The programs established under divisions (A) and (B) of this section shall be administered by the department of education in accordance with an interagency agreement entered into with the department of job and family services under section 5101.801 of the Revised Code. This interagency agreement shall establish the implementation date of the Title IV-A head start plus program, which is July 1, 2004. The programs shall provide Title IV-A services to eligible individuals who meet eligibility requirements established in rules and administrative orders adopted by the department of job and family services under Chapter 5104. of the Revised Code. The department of job and family services and the department of education jointly shall adopt policies and procedures establishing program requirements for eligibility, services, program administration, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 110 Stat. 2113, 42 U.S.C. 601 (1996), as amended.

The department of education shall be responsible for approving through an application process all Title IV-A head start agencies and Title IV-A head start plus agencies for provision of services under the programs established under this section. An agency that is not approved by the department shall not be reimbursed for the cost of providing services under the programs.

Sec. 3301.34. In administering the Title IV-A head start program established under division (A) of section 3301.33 of the Revised Code, the department of education shall enter into a contract with each Title IV-A head start agency establishing the terms and conditions applicable to the provision of Title IV-A services for eligible individuals. The contracts shall specify the respective duties of the Title IV-A head start agencies and the department of education, reporting requirements, eligibility requirements, reimbursement methodology, audit requirements, and other provisions

determined necessary in accordance with section 3301.38 of the Revised Code. The department of education shall reimburse the Title IV-A head start agencies for Title IV-A services provided to individuals determined eligible for Title IV-A services by the county department of job and family services in accordance with the terms of the contract, policies and procedures adopted by the department of education and the department of job and family services under section 3301.33 of the Revised Code, and the interagency agreement entered into by the departments.

The department of education shall ensure that all reimbursements paid to a Title IV-A head start agency are only for Title IV-A services.

The department of education shall ensure that all reimbursements paid to a Title IV-A head start agency are for only those individuals determined eligible for Title IV-A services by the appropriate county department of job and family services, as provided for in section 3301.36 of the Revised Code.

Sec. 3301.35. (A) In administering the Title IV-A head start plus program established under division (B) of section 3301.33, the department of education shall enter into a contract with each Title IV-A head start plus agency under which the department shall reimburse the agency for allowable expenses in connection to services provided to eligible individuals.

(B) Each county department of job and family services shall assist the department of education in administering the program within its respective county in accordance with requirements established by the state department of job and family services under section 5101.801 of the Revised Code. The county department shall ensure that all reimbursements paid to a Title IV-A head start plus agency are for only Title IV-A services.

The administration of the Title IV-A head start plus program by the county department shall solely consist of determining eligibility of individuals and establishing co-payment requirements in accordance with rules adopted by the state department of job and family services.

(C) The department of education shall enter into contracts with only those agencies that have been approved by the department of education as a Title IV-A head start plus agency and that have been licensed in accordance with section 3301.37 of the Revised Code. Each contract entered into under this division shall specify all of the following:

(1) Requirements applicable to the allowable use of and accountability for Title IV-A funds;

(2) Requirements for access, inspection, and examination of the agency's financial and program records by the county department, the state department of job and family services, the department of education, the

auditor of state, and any other state or federal agency with authority to inspect and examine such records;

(3) Applicable audit requirements applicable to funds received under the contract;

(4) Reporting requirements by and for the county department, the state department of job and family services, and the department of education;

(5) Provisions for the department of education to suspend, modify, or terminate the contract if the department of education suspends or removes the agency from the list of approved Title IV-A head start plus agencies or if the state department of job and family services denies or revokes a license for the agency.

Sec. 3301.36. Each county department of job and family services shall determine eligibility for Title IV-A services for individuals seeking Title IV-A services from a Title IV-A head start agency or Title IV-A head start plus agency.

Sec. 3301.37. (A) Each entity operating a head start program shall be licensed or certified by the department of job and family services in accordance with Chapter 5104. of the Revised Code.

(B) Notwithstanding division (A) of this section, any current license issued under section 3301.58 of the Revised Code by the department of education to an entity operating a head start program prior to the effective date of this section is hereby deemed to be a license issued by the department of job and family services under Chapter 5104. of the Revised Code. The expiration date of the license shall be the earlier of the expiration date specified in the license as issued under section 3301.58 of the Revised Code or September 1, 2005. In order to continue operation of its head start program after that expiration date, the entity shall obtain a license as prescribed in division (A) of this section.

Sec. 3301.38. (A) The department of education shall adopt policies and procedures for the approval, suspension, and removal of Title IV-A head start and Title IV-A head start plus agencies from the approved list of providers.

(B) If a head start program that received state funding prior to July 1, 2001, waives its right to state funding or has its state funding eliminated for not meeting financial standards or program performance standards, the grantee or delegates shall transfer control of title to property, equipment, and remaining supplies purchased with state funds to the department along with any reports prescribed by the department.

(C) Title IV-A head start allocations shall be distributed on a per-pupil basis, which the department may adjust so that the per pupil amount

multiplied by the number of eligible children enrolled and receiving services, as defined by the department of education, reported on the first day of December or the first business day following that date equals the amount allocated.

(D) The department of education shall prescribe the assessment instrument and determine target levels for critical performance indicators for the purpose of assessing Title IV-A head start and Title IV-A head start plus agencies. Onsite reviews and follow-up visits shall be based on progress in meeting the prescribed target levels.

(E) The department of education shall require Title IV-A head start and Title IV-A head start plus agencies to:

(1) Address federal head start education and assessment performance standards, as required by 45 C.F.R. 1304.20 to 1304.41 and the Ohio department of education pre-kindergarten math and literacy content standards;

(2) Comply with the department of education prescribed assessment requirements that are aligned with the assessment system for kindergarten through twelfth grade;

(3) Comply with federal head start performance standards for comprehensive services in health, nutrition, mental health, family partnership, and social services as required by 45 C.F.R. 1304.20 to 1304.41;

(4) Require teachers to attend a minimum of twenty hours of professional development as prescribed by the department of education regarding the implementation of content standards and assessment; and

(5) Document and report child progress using research-based indicators as prescribed by the department.

(F) Costs for developing and administering a Title IV-A head start or Title IV-A head start plus program may not exceed fifteen percent of the total approved costs of the program.

(G) In consultation with the department of job and family services, the department of education shall establish program requirements for Title IV-A head start and Title IV-A head start plus agencies.

(H) The department of education may examine the financial and program records of Title IV-A head start agencies and Title IV-A head start plus agencies. The department of education shall monitor these agencies to ensure that all Title IV-A funds are used solely for purposes allowable under federal regulations, section 5101.801 of the Revised Code, and the Title IV-A state plan and shall take prompt action to recover funds that are not expended accordingly. The department of job and family services may

examine the financial records of Title IV-A head start agencies and Title IV-A head start plus agencies.

(I)(1) A Title IV-A head start agency or Title IV-A head start plus agency shall propose and implement a corrective action plan that has been approved by the department of education when the department determines either of the following:

(a) The financial practices of the Title IV-A head start agency or Title IV-A head start plus agency are not in accordance with standard accounting principles and federal requirements or do not meet financial standards required in the contract as specified under division (C) of section 3301.35 of the Revised Code;

(b) The Title IV-A head start or Title IV-A head start plus agency fails to substantially meet the head start performance standards or exhibits below average performance as measured against the performance indicators.

(2) The approved corrective action plan shall be signed by the appropriate official and agency governance body.

(3) The corrective action plan shall include a schedule of monitoring by the department of education. This monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the department or obtained by the Title IV-A head start agency or Title IV-A head start plus agency. The department may withhold funding to a Title IV-A head start agency or a Title IV-A head start plus agency.

(4) If a Title IV-A head start agency or a Title IV-A head start plus agency fails to satisfactorily complete a corrective action, the department may suspend or terminate part or all of the funding to the agency and may remove the agency from the approved list.

(J) The department shall provide technical assistance to Title IV-A head start agencies in administering Title IV-A head start programs and to Title IV-A head start plus agencies and child care partners in administering head start plus programs.

Sec. ~~3301.33~~ 3301.40. (A) As used in this section, "adult education" has the meaning as established under the "adult education act," 102 Stat. 302 (1988), 20 U.S.C. 1201a(2), as amended.

(B) Beginning July 1, 1996, the department of education may distribute state funds to organizations that qualify for federal funds under the "Adult Education Act," 102 Stat. 302 (1988), 20 U.S.C. 1201 to 1213d, as amended. The funds shall be used by qualifying organizations to provide adult education services. State funds distributed pursuant to this section shall be distributed in accordance with the rules adopted by the state board of education

pursuant to this section.

Each organization that receives funds under this section shall file program performance reports with the department. The reports shall be filed at times required by state board of education rule and contain assessments of individual students as they enter, progress through, and exit the adult education program; records regarding individual student program participation time; reports of individual student retention rates; and any other information required by rule.

(C) The state board of education shall adopt rules for the distribution of funds under this section. The rules shall include the following:

(1) Requirements for program performance reports.

(2) Indicators of adult education program quality, including indicators of learner achievement, program environment, program planning, curriculum and instruction, staff development, support services, and recruitment and retention.

(3) A formula for the distribution of funds under this section. The formula shall include as a factor an organization's quantifiable success in meeting the indicators of program quality established pursuant to division (C)(2) of this section.

(4) Standards and procedures for reducing or discontinuing funding to organizations that fail to meet the requirements of this section.

(5) Any other requirements or standards considered appropriate by the board.

Sec. 3301.52. As used in sections 3301.52 to 3301.59 of the Revised Code:

(A) "Preschool program" means either of the following:

(1) A child day-care program for preschool children that is operated by a school district board of education, or an eligible nonpublic school, ~~a head start grantee, or a head start delegate agency.~~

(2) A child day-care program for preschool children age three or older that is operated by a county MR/DD board.

(B) "Preschool child" or "child" means a child who has not entered kindergarten and is not of compulsory school age.

(C) "Parent, guardian, or custodian" means the person or government agency that is or will be responsible for a child's school attendance under section 3321.01 of the Revised Code.

(D) "Superintendent" means the superintendent of a school district or the chief administrative officer of an eligible nonpublic school.

(E) "Director" means the director, head teacher, elementary principal, or site administrator who is the individual on site and responsible for

supervision of a preschool program.

(F) "Preschool staff member" means a preschool employee whose primary responsibility is care, teaching, or supervision of preschool children.

(G) "Nonteaching employee" means a preschool program or school child program employee whose primary responsibilities are duties other than care, teaching, and supervision of preschool children or school children.

(H) "Eligible nonpublic school" means a nonpublic school chartered as described in division (B)(8) of section 5104.02 of the Revised Code or chartered by the state board of education for any combination of grades one through twelve, regardless of whether it also offers kindergarten.

(I) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(J) "School child program" means a child day-care program for only school children that is operated by a school district board of education, county MR/DD board, or eligible nonpublic school.

(K) "School child" and "child day-care" have the same meanings as in section 5104.01 of the Revised Code.

(L) "School child program staff member" means an employee whose primary responsibility is the care, teaching, or supervision of children in a school child program.

~~(M) "Head start" means a program operated in accordance with subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C. 9831, and amendments thereto.~~

Sec. 3301.53. (A) Not later than July 1, 1988, the state board of education, in consultation with the director of job and family services, shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county MR/DD boards, or eligible nonpublic schools, ~~head start grantees, and head start delegate agencies~~. The rules shall include the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided

inservice education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program on or after March 17, 1989, demonstrate a need for a preschool program that is not being met by any existing program providing child day-care, prior to establishing the program;

(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the state board to prevent the spread of communicable disease;

(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code.

(B) The state board of education in consultation with the director of job and family services shall ensure that the rules adopted by the state board under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child day-care centers. The state board and the director of job and family services shall review all such rules at least once every five years.

(C) On or before January 1, 1992, the state board of education, in consultation with the director of job and family services, shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for school child day-care centers under Chapter 5104. of the Revised Code.

Sec. 3301.54. (A)(1) Each preschool program shall be directed and supervised by a director, a head teacher, an elementary principal, or a site administrator who is on site and responsible for supervision of the program. Except as otherwise provided in division (A)(2), (3), or (4) of this section, this person shall hold a valid educator license designated as appropriate for teaching or being an administrator in a preschool setting issued pursuant to section 3319.22 of the Revised Code and have completed at least four courses in child development or early childhood education from an accredited college, university, or technical college.

(2) If the person was employed prior to July 1, 1988, by a school district board of education or an eligible nonpublic school to direct a preschool program, the person shall be considered to meet the requirements of this section if the person holds a valid kindergarten-primary certificate described under former division (A) of section 3319.22 of the Revised Code as it

existed on January 1, 1996.

(3) If the person is employed to direct a preschool program operated by an eligible, nontax-supported, nonpublic school, the person shall be considered to meet the requirements of this section if the person holds a valid teaching certificate issued in accordance with section 3301.071 of the Revised Code.

~~(4) If the person is a site administrator for a head start grantee or head start delegate agency, the person shall be considered to meet the requirements of this section if the person provides evidence that the person has attained at least a high school diploma or certification of high school equivalency issued by the state board of education or a comparable agency of another state, and that the person meets at least one of the following requirements:~~

~~(a) Two years of experience working as a child-care staff member in a child day-care center or preschool program and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular day-care center or preschool program and who has been promoted to or designated director shall have one year from the time the person was promoted or designated to complete the required four courses;~~

~~(b) Two years of training in an accredited college, university, or technical college that includes at least four courses in child development or early childhood education;~~

~~(c) A child development associate credential issued by the national child development associate credentialing commission;~~

~~(d) An associate or higher degree in child development or early childhood education from an accredited college, university, or technical college.~~

(B) Each preschool staff member shall be at least eighteen years of age and have a high school diploma or a certification of high school equivalency issued by the state board of education or a comparable agency of another state, except that a staff member may be less than eighteen years of age if the staff member is a graduate of a two-year vocational child-care training program approved by the state board of education, or is a student enrolled in the second year of such a program that leads to high school graduation, provided that the student performs duties in the preschool program under the continuous supervision of an experienced preschool staff member and receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school.

A preschool staff member shall annually complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, and first aid, and in the prevention, recognition, and management of communicable diseases, until a total of forty-five hours has been completed, unless the staff member holds an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college, or any type of educator license designated as appropriate for teaching in an associate teaching position in a preschool setting issued by the state board of education pursuant to section 3319.22 of the Revised Code.

Sec. 3301.55. (A) A school district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ operating a preschool program shall house the program in buildings that meet the following requirements:

(1) The building is operated by the district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ and has been approved by the division of industrial compliance in the department of commerce or a certified municipal, township, or county building department for the purpose of operating a program for preschool children. Any such structure shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. and with rules adopted by the board of building standards under Chapter 3781. of the Revised Code for the safety and sanitation of structures erected for this purpose.

(2) The building is in compliance with fire and safety laws and regulations as evidenced by reports of annual school fire and safety inspections as conducted by appropriate local authorities.

(3) The school is in compliance with rules established by the state board of education regarding school food services.

(4) The facility includes not less than thirty-five square feet of indoor space for each child in the program. Safe play space, including both indoor and outdoor play space, totaling not less than sixty square feet for each child using the space at any one time, shall be regularly available and scheduled for use.

(5) First aid facilities and space for temporary placement or isolation of injured or ill children are provided.

(B) Each school district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ that operates, or proposes to operate, a preschool program shall submit a building plan including all information specified by the state board of education to the

board not later than the first day of September of the school year in which the program is to be initiated. The board shall determine whether the buildings meet the requirements of this section and section 3301.53 of the Revised Code, and notify the superintendent of its determination. If the board determines, on the basis of the building plan or any other information, that the buildings do not meet those requirements, it shall cause the buildings to be inspected by the department of education. The department shall make a report to the superintendent specifying any aspects of the building that are not in compliance with the requirements of this section and section 3301.53 of the Revised Code and the time period that will be allowed the district, county MR/DD board, or school, ~~grantee, or agency~~ to meet the requirements.

Sec. 3301.57. (A) For the purpose of improving programs, facilities, and implementation of the standards promulgated by the state board of education under section 3301.53 of the Revised Code, the state department of education shall provide consultation and technical assistance to school districts, county MR/DD boards, and eligible nonpublic schools, ~~head start grantees, and head start delegate agencies~~ operating preschool programs or school child programs, and inservice training to preschool staff members, school child program staff members, and nonteaching employees.

(B) The department and the school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ shall jointly monitor each preschool program and each school child program.

If the program receives any grant or other funding from the state or federal government, the department annually shall monitor all reports on attendance, financial support, and expenditures according to provisions for use of the funds.

(C) ~~The department of job and family services and the department of education shall enter into a contract pursuant to which the department of education inspects preschool programs and school child programs in accordance with sections 3301.52 to 3301.59 of the Revised Code, the rules adopted under those sections, and any applicable procedures in Chapter 5104. of the Revised Code and investigates any complaints filed pursuant to those sections or rules. The contract shall require the department of job and family services to pay the department of education for conducting the inspections and investigations an amount equal to the amount that the department of job and family services would expend conducting the same number of inspections and investigations with its employees under Chapter 5104. of the Revised Code.~~

(D) The department of education, at least twice during every twelve-month period of operation of a preschool program or a licensed school child program, shall inspect the program and provide a written inspection report to the superintendent of the school district, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~. At least one inspection shall be unannounced, and all inspections may be unannounced. No person shall interfere with any inspection conducted pursuant to this division or to the rules adopted pursuant to sections 3301.52 to 3301.59 of the Revised Code.

Upon receipt of any complaint that a preschool program or a licensed school child program is out of compliance with the requirements in sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department shall investigate and may inspect the program.

(E)(D) If a preschool program or a licensed school child program is determined to be out of compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections, the department of education shall notify the appropriate superintendent, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, it may commence action under Chapter 119. of the Revised Code to close the program or to revoke the license of the program. If a program does not comply with an order to cease operation issued in accordance with Chapter 119. of the Revised Code, the department shall notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located that the program is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer shall file a complaint in the court of common pleas of the county in which the program is located requesting the court to issue an order enjoining the program from operating. The court shall grant the requested injunctive relief upon a showing that the program named in the complaint is operating in violation of sections 3301.52 to 3301.59 of the Revised Code or the rules adopted under those sections and in violation of an order to cease operation issued in accordance with Chapter 119. of the Revised Code.

~~(F)~~(E) The department of education shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 3301.58. (A) The department of education is responsible for the licensing of preschool programs and school child programs and for the enforcement of sections 3301.52 to 3301.59 of the Revised Code and of any rules adopted under those sections. No school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ shall operate, establish, manage, conduct, or maintain a preschool program without a license issued under this section. A school district board of education, county MR/DD board, or eligible nonpublic school may obtain a license under this section for a school child program. The school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ shall post the current license for each preschool program and licensed school child program it operates, establishes, manages, conducts, or maintains in a conspicuous place in the preschool program or licensed school child program that is accessible to parents, custodians, or guardians and employees and staff members of the program at all times when the program is in operation.

(B) Any school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ that desires to operate, establish, manage, conduct, or maintain a preschool program shall apply to the department of education for a license on a form that the department shall prescribe by rule. Any school district board of education, county MR/DD board, or eligible nonpublic school that desires to obtain a license for a school child program shall apply to the department for a license on a form that the department shall prescribe by rule. The department shall provide at no charge to each applicant for a license under this section a copy of the requirements under sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. The department shall mail application forms for the renewal of a license at least one hundred twenty days prior to the date of the expiration of the license, and the application for renewal of a license shall be filed with the department at least sixty days before the date of the expiration of the existing license. The department may establish application fees by rule

adopted under Chapter 119. of the Revised Code, and all applicants for a license shall pay any fee established by the department at the time of making an application for a license. All fees collected pursuant to this section shall be paid into the state treasury to the credit of the general revenue fund.

(C) Upon the filing of an application for a license, the department of education shall investigate and inspect the preschool program or school child program to determine the license capacity for each age category of children of the program and to determine whether the program complies with sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections. When, after investigation and inspection, the department of education is satisfied that sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are complied with by the applicant, the department of education shall issue the program a provisional license as soon as practicable in the form and manner prescribed by the rules of the department. The provisional license shall be valid for six months from the date of issuance unless revoked.

(D) The department of education shall investigate and inspect a preschool program or school child program that has been issued a provisional license at least once during operation under the provisional license. If, after the investigation and inspection, the department of education determines that the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the provisional licensee, the department of education shall issue a license that is effective for two years from the date of the issuance of the provisional license.

(E) Upon the filing of an application for the renewal of a license by a preschool program or school child program, the department of education shall investigate and inspect the preschool program or school child program. If the department of education determines that the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections are met by the applicant, the department of education shall renew the license for two years from the date of the expiration date of the previous license.

(F) The license or provisional license shall state the name of the school district board of education, county MR/DD board, or eligible nonpublic school, ~~head start grantee, or head start delegate agency~~ that operates the preschool program or school child program and the license capacity of the program. The license shall include any other information required by section 5104.03 of the Revised Code for the license of a child day-care center.

(G) The department of education may revoke the license of any

preschool program or school child program that is not in compliance with the requirements of sections 3301.52 to 3301.59 of the Revised Code and any rules adopted under those sections.

(H) If the department of education revokes a license or refuses to renew a license to a program, the department shall not issue a license to the program within two years from the date of the revocation or refusal. All actions of the department with respect to licensing preschool programs and school child programs shall be in accordance with Chapter 119. of the Revised Code.

Sec. 3301.68. There is hereby created the legislative committee on education oversight as a subcommittee of the legislative service commission. The committee shall consist of five members of the house of representatives appointed by the speaker of the house of representatives and five members of the senate appointed by the president of the senate. Not more than three of the members appointed from each house shall be members of the same political party. Members shall serve during the term of office to which they were elected.

The committee, subject to the oversight and direction of the legislative service commission, shall direct the work of the legislative office of education oversight, which is hereby established. The committee may employ a staff director and such other staff as are necessary for the operation of the office, who shall be in the unclassified service of the state, and may contract for the services of whatever technical advisors are necessary for the committee and the office to carry out their duties.

The chairperson and vice-chairperson of the legislative service commission shall fix the compensation of the director. The director, with the approval of the director of the legislative service commission, shall fix the compensation of other staff of the office in accordance with a salary schedule established by the director of the legislative service commission. Contracts for the services of necessary technical advisors shall be approved by the director of the legislative service commission.

All expenses incurred by the committee or office shall be paid upon vouchers approved by the chairperson of the committee. The committee shall adopt rules for the conduct of its business and the election of officers, except that the office of chairperson of the committee shall alternate each general assembly between a member of the house of representatives selected by the speaker and a member of the senate selected by the president.

The committee shall select, for the office to review and evaluate, education and school-related programs that receive state financial assistance in any form. The reviews and evaluations may include any of the following:

(A) Assessment of the uses school districts and institutions of higher education make of state money they receive and determination of the extent to which such money improves school district or institutional performance in the areas for which the money was intended to be used;

(B) Determination of whether an education program meets its intended goals, has adequate operating or administrative procedures and fiscal controls, encompasses only authorized activities, has any undesirable or unintended effects, and is efficiently managed;

(C) Examination of various pilot programs developed and initiated in school districts and at state-assisted colleges and universities to determine whether such programs suggest innovative, effective ways to deal with problems that may exist in other school districts or state-assisted colleges or universities, and to assess the fiscal costs and likely impact of adopting such programs throughout the state or in other state-assisted colleges and universities.

The committee shall report the results of each program review the office conducts to the general assembly.

If the general assembly directs the legislative office of education oversight to submit a study to the general assembly by a particular date, the committee, upon a majority vote of its members, may modify the scope and due date of the study to accommodate the availability of data and resources.

Sec. 3301.80. (A) There is hereby created the Ohio SchoolNet commission as an independent agency. The commission shall administer programs to provide financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

The commission is a body corporate and politic, an agency of the state performing essential governmental functions of the state.

(B)(1) The commission shall consist of ~~eleven~~ thirteen members, ~~seven~~ nine of whom are voting members. Of the voting members, one shall be appointed by the speaker of the house of representatives ~~and~~, one shall be appointed by the president of the senate, and two shall be appointed by the governor. The members appointed by the speaker of the house and the president of the senate shall not be members of the general assembly. The state superintendent of public instruction or a designee of the superintendent, the director of budget and management or a designee of the director, the director of administrative services or a designee of the director, the chairperson of the public utilities commission or a designee of the chairperson, and the director of the Ohio educational telecommunications network commission or a designee of the director shall serve on the

commission as ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house and two shall be members of the senate appointed by the president of the senate. The members appointed from each house shall not be members of the same political party. The commission shall appoint officers from among its members.

(2) The members shall serve without compensation. The voting members appointed by the speaker of the house of representatives ~~and~~, the president of the senate, and the governor shall be reimbursed, pursuant to office of budget and management guidelines, for necessary expenses incurred in the performance of official duties.

(3) The terms of office for the members appointed by the speaker of the house ~~and~~, the president of the senate, and the governor shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds, except that the voting members so appointed may be removed at ~~anytime~~ any time by their respective appointing authority. The members appointed by the speaker of the house ~~and~~, the president of the senate, and the governor may be reappointed. Any member appointed from the house of representatives or senate who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the commission. Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term. The members appointed by the speaker of the house ~~and~~, the president of the senate, and the governor shall continue in office subsequent to the expiration date of that member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C)(1) The commission shall be under the supervision of an executive director who shall be appointed by the commission. The executive director shall serve at the pleasure of the commission and shall direct commission employees in the administration of all programs for the provision of financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

(2) The employees of the Ohio SchoolNet commission shall be placed in the unclassified service. The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of

the executive director.

(3) The employees of the Ohio SchoolNet commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(D) The Ohio SchoolNet commission shall do all of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, and other educational institutions to utilize educational technology;

(2) Contract with the department of education, state institutions of higher education, private nonprofit institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code, and such other public or private entities as the executive director deems necessary for the administration and implementation of the programs under the commission's jurisdiction;

(3) Establish a reporting system to which school districts, community schools established under Chapter 3314. of the Revised Code, and other educational institutions receiving financial assistance pursuant to this section for the acquisition of educational technology report information as to the manner in which such assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of this utilization, and other information as may be required by the commission;

(4) Establish necessary guidelines governing purchasing and procurement by participants in programs administered by the commission that facilitate the timely and effective implementation of such programs;

(5) Take into consideration the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for any programs under its administration.

(E)(1) The executive director shall implement policies and directives issued by the Ohio SchoolNet commission.

(2) The Ohio SchoolNet commission may establish a systems support network to facilitate the timely implementation of the programs, projects, or activities for which it provides assistance.

(3) Chapters 123., 124., 125., and 153., and sections 9.331, 9.332, and 9.333 of the Revised Code do not apply to contracts, programs, projects, or activities of the Ohio SchoolNet commission.

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district,

governing authority of any community school established under Chapter 3314. of the Revised Code, college, university, institution, or other agency within the state by which a teacher is employed and paid.

(B) "Teacher" means all of the following:

(1) Any person paid from public funds and employed in the public schools of the state under any type of contract described in section 3319.08 of the Revised Code in a position for which the person is required to have a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person employed as a teacher by a community school pursuant to Chapter 3314. of the Revised Code;

(3) Any person holding an internship certificate issued under section 3319.28 of the Revised Code and employed in a public school in this state;

(4) Any person having a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code and employed in a public school in this state in an educational position, as determined by the state board of education, under programs provided for by federal acts or regulations and financed in whole or in part from federal funds, but for which no licensure requirements for the position can be made under the provisions of such federal acts or regulations;

(5) Any other teacher or faculty member employed in any school, college, university, institution, or other agency wholly controlled and managed, and supported in whole or in part, by the state or any political subdivision thereof, including Central state university, Cleveland state university, the university of Toledo, and the medical college of Ohio at Toledo;

(6) The educational employees of the department of education, as determined by the state superintendent of public instruction.

In all cases of doubt, the state teachers retirement board shall determine whether any person is a teacher, and its decision shall be final.

"Teacher" does not include any academic or administrative employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (D) of this section and all disability benefit recipients, as defined in section 3307.50 of the Revised Code. However, for purposes of this chapter, the following persons shall not be considered members:

(1) A student, intern, or resident who is not a member while employed

part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;

(2) A person denied membership pursuant to section 3307.24 of the Revised Code;

(3) An other system retirant, as defined in section 3307.35 of the Revised Code, or a superannuate;

(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501.

(D) "Contributor" means any person who has an account in the teachers' savings fund or defined contribution fund.

(E) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(F) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary under the plan described in sections 3307.50 to 3307.79 of the Revised Code, "year" may mean the contract year.

(G) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(H) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(I) "Five years of service credit" means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(J) "Actuary" means the actuarial consultant to the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.

(K) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(L)(1) Except as provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund or defined contribution fund under section 3307.26 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter are paid;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made by the employer in exchange for a member's waiver of a right to receive any payment, amount, or benefit described in division (L)(2) of this section;

(g) Payments by the employer for services not actually rendered;

(h) Any amount paid by the employer as a retroactive increase in salary, wages, or other earnings, unless the increase is one of the following:

(i) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for teaching and not designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(ii) A retroactive increase paid to a member employed by a school

district board of education in a position that requires a license designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(iii) A retroactive increase paid to a member employed by a school district board of education as a superintendent that is also paid as described in division (L)(2)(h)(i) of this section;

(iv) A retroactive increase paid to a member employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all members employed by the employer.

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

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

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

(M) "Superannuate" means both of the following:

(1) A former teacher receiving from the system a retirement allowance under section 3307.58 or 3307.59 of the Revised Code;

(2) A former teacher receiving a benefit from the system under a plan established under section 3307.81 of the Revised Code, except that "superannuate" does not include a former teacher who is receiving a benefit based on disability under a plan established under section 3307.81 of the Revised Code.

For purposes of ~~section~~ sections 3307.35 and 3307.353 of the Revised

Code, "superannuate" also means a former teacher receiving from the system a combined service retirement benefit paid in accordance with section 3307.57 of the Revised Code, regardless of which retirement system is paying the benefit.

Sec. 3307.35. (A) As used in this section and section 3307.352 of the Revised Code, "other system retirant" means a member or former member of the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement, or a disability benefit from a system of which the retirant is a member or former member.

(B) A Subject to this section and section 3307.353 of the Revised Code, a superannuate or other system retirant may be employed as a teacher.

(C) A superannuate or other system retirant employed in accordance with this section shall contribute to the state teachers retirement system in accordance with section 3307.26 of the Revised Code and the employer shall contribute in accordance with sections 3307.28 and 3307.31 of the Revised Code. Such contributions shall be received as specified in section 3307.14 of the Revised Code. A superannuate or other system retirant employed as a teacher is not a member of the state teachers retirement system, does not have any of the rights, privileges, or obligations of membership, except as provided in this section, and is not eligible to receive health, medical, hospital, or surgical benefits under section 3307.39 of the Revised Code for employment subject to this section.

(D) The employer that employs a superannuate or other system retirant shall notify the state teachers retirement board of the employment not later than the end of the month in which the employment commences. Any overpayment of benefits to a superannuate by the retirement system resulting from an employer's failure to give timely notice may be charged to the employer and may be certified and deducted as provided in section 3307.31 of the Revised Code.

(E) On receipt of notice from an employer that a person who is an other system retirant has been employed, the state teachers retirement system shall notify the state retirement system of which the other system retirant was a member of such employment.

(F) A superannuate or other system retirant who has received an allowance or benefit for less than two months when employment subject to this section commences shall forfeit the allowance or benefit for any month the superannuate or retirant is employed prior to the expiration of such period. Contributions shall be made to the retirement system from the first

day of such employment, but service and contributions for that period shall not be used in the calculation of any benefit payable to the superannuate or other system retirant, and those contributions shall be refunded on the superannuate's or retirant's death or termination of the employment. Contributions made on compensation earned after the expiration of such period shall be used in calculation of the benefit or payment due under section 3307.352 of the Revised Code.

(G) On receipt of notice from the Ohio police and fire pension fund, public employees retirement system, or school employees retirement system of the re-employment of a superannuate, the state teachers retirement system shall not pay, or if paid shall recover, the amount to be forfeited by the superannuate in accordance with section 145.38, 742.26, or 3309.341 of the Revised Code.

(H) If the disability benefit of an other system retirant employed under this section is terminated, the retirant shall become a member of the state teachers retirement system, effective on the first day of the month next following the termination, with all the rights, privileges, and obligations of membership. If such person, after the termination of the retirant's disability benefit, earns two years of service credit under this retirement system or under the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, or state highway patrol retirement system, the retirant's prior contributions as an other system retirant under this section shall be included in the retirant's total service credit, as defined in section 3307.50 of the Revised Code, as a state teachers retirement system member, and the retirant shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(I) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 20, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

(J) The state teachers retirement board may make the necessary rules to carry into effect this section and to prevent the abuse of the rights and privileges thereunder.

Sec. 3307.353. (A) This section applies in the case of a person who is or most recently has been employed by an employer in a position that is customarily filled by a vote of members of a board or commission.

(B) A board or commission that proposes to continue the employment as a reemployed superannuate or rehire as a reemployed superannuate to the

same position an individual described in division (A) of this section shall do both of the following in accordance with rules adopted under division (C) of this section:

(1) Not less than sixty days before the employment as a reemployed superannuate is to begin, give public notice that the person is or will be retired and is seeking employment with the employer;

(2) Between fifteen and thirty days before the employment as a reemployed superannuate is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) The state teachers retirement board shall adopt rules as necessary to implement this section.

Sec. 3309.341. (A) As used in this section and section 3309.344 of the Revised Code:

(1) "SERS retirant" means any person who is receiving a retirement allowance from the school employees retirement system under section 3309.36, 3309.38, or 3309.381 of the Revised Code or any benefit paid under a plan established under section 3309.81 of the Revised Code.

(2) "Other system retirant" means a member or former member of the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement, or a disability benefit from a system of which the retirant is a member or former member.

(B)(1) ~~An~~ Subject to this section and section 3309.345 of the Revised Code, an SERS retirant or other system retirant may be employed by a public employer. If so employed, the SERS retirant or other system retirant shall contribute to the school employees retirement system in accordance with section 3309.47 of the Revised Code, and the employer shall make contributions in accordance with section 3309.49 of the Revised Code.

(2) An employer that employs an SERS retirant or other system retirant shall notify the retirement board of the employment not later than the end of the month in which the employment commences. On receipt of notice from an employer that a person who is an other system retirant has been employed, the school employees retirement system shall notify the state retirement system of which the other system retirant was a member of such employment.

(C) An SERS retirant or other system retirant who has received a

retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for any month the SERS retirant or other system retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in the calculation of any benefits payable to the SERS retirant or other system retirant, and those contributions shall be refunded on death or termination of the employment. Contributions made on compensation earned after the expiration of such period shall be used in the calculation of the benefit or payment due under section 3309.344 of the Revised Code.

(D) On receipt of notice from the Ohio police and fire pension fund, public employees retirement system, or state teachers retirement system of the re-employment of an SERS retirant, the school employees retirement system shall not pay, or if paid shall recover, the amount to be forfeited by the SERS retirant in accordance with section 145.38, 742.26, or 3307.35 of the Revised Code.

(E) An SERS retirant or other system retirant subject to this section is not a member of the school employees retirement system; does not have any of the rights, privileges, or obligations of membership, except as specified in this section; and is not eligible to receive health, medical, hospital, or surgical benefits under section 3309.69 of the Revised Code for employment subject to this section.

(F) If the disability benefit of an other system retirant employed under this section is terminated, the retirant shall become a member of the school employees retirement system, effective on the first day of the month next following the termination, with all the rights, privileges, and obligations of membership. If the retirant, after the termination of the disability benefit, earns two years of service credit under this retirement system or under the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, or state highway patrol retirement system, the retirant's prior contributions as an other system retirant under this section shall be included in the retirant's total service credit as a school employees retirement system member, and the retirant shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(G) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 29, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

(H) The school employees retirement board may adopt rules to carry out this section.

Sec. 3309.345. (A) This section applies in the case of a person who is or most recently has been employed by an employer in a position that is customarily filled by a vote of members of a board or commission.

(B) A board or commission that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant to the same position an individual described in division (A) of this section shall do both of the following in accordance with rules adopted under division (C) of this section:

(1) Not less than sixty days before the employment as a reemployed retirant is to begin, give public notice that the person is or will be retired and is seeking employment with the employer;

(2) Between fifteen and thirty days before the employment as a reemployed retirant is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) The school employees retirement board shall adopt rules as necessary to implement this section.

Sec. 3311.05. (A) The territory within the territorial limits of a county, or the territory included in a district formed under either section 3311.053 or 3311.059 of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

(B) A county school financing district created under section 3311.50 of the Revised Code is not the school district described in division (A) of this section or any other school district but is a taxing district.

Sec. 3311.059. The procedure prescribed in this section may be used in lieu of a transfer prescribed under section 3311.231 of the Revised Code.

(A) Subject to divisions (B) and (C) of this section, a board of education of a local school district may by a resolution approved by a majority of all its members propose to sever that local school district from the territory of the educational service center in which the local school district is currently included and to instead annex the local school district to the territory of another educational service center, the current territory of which is adjacent to the territory of the educational service center in which the local school

district is currently included. The resolution shall promptly be filed with the governing board of each educational service center affected by the resolution and with the superintendent of public instruction.

(B) The resolution adopted under division (A) of this section shall not be effective unless it is approved by both the governing board of the educational service center to which the board of education proposes to annex the local school district and the state board of education. The severance of the local school district from one educational service center and its annexation to another educational service center under this section shall not be effective until one year after the first day of July following the later of the date that the governing board of the educational service center to which the local school district is proposed to be annexed approves the resolution or the date the board of elections certifies the results of the referendum election as provided in division (C) of this section.

(C) Within sixty days following the date of the adoption of the resolution under division (A) of this section, the electors of the local school district may petition for a referendum vote on the resolution. The question whether to approve or disapprove the resolution shall be submitted to the electors of such school district if a number of qualified electors equal to twenty per cent of the number of electors in the school district who voted for the office of governor at the most recent general election for that office sign a petition asking that the question of whether the resolution shall be disapproved be submitted to the electors. The petition shall be filed with the board of elections of the county in which the school district is located. If the school district is located in more than one county, the petition shall be filed with the board of elections of the county in which the majority of the territory of the school district is located. The board shall certify the validity and sufficiency of the signatures on the petition.

The board of elections shall immediately notify the board of education of the local school district and the governing board of each educational service center affected by the resolution that the petition has been filed.

The effect of the resolution shall be stayed until the board of elections certifies the validity and sufficiency of the signatures on the petition. If the board of elections determines that the petition does not contain a sufficient number of valid signatures and sixty days have passed since the adoption of the resolution, the resolution shall become effective as provided in division (B) of this section.

If the board of elections certifies that the petition contains a sufficient number of valid signatures, the board shall submit the question to the qualified electors of the school district on the day of the next general or

primary election held at least seventy-five days after the board of elections certifies the validity and sufficiency of signatures on the petition. The election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

If a majority of the electors voting on the question disapprove the resolution, the resolution shall not become effective. If a majority of the electors voting on the question approve the resolution, the resolution shall become effective as provided in division (B) of this section.

(D) Upon the effective date of the severance of the local school district from one educational service center and its annexation to another educational service center as provided in division (B) of this section, the governing board of each educational service center shall take such steps for the election of members of the governing board and for organization of the governing board as prescribed in Chapter 3313. of the Revised Code.

(E) If a school district is severed from one educational service center and annexed to another service center under this section, the board of education of that school district shall not propose a subsequent severance and annexation action under this section that would be effective sooner than five years after the effective date of the next previous severance and annexation action under this section.

Sec. 3311.24. (A) Except as provided in division (B) of this section, if the board of education of a city, exempted village, or local school district deems it advisable to transfer territory from such district to an adjoining city, exempted village, or local school district, or if a petition, signed by seventy-five per cent of the qualified electors residing within that portion of a city, exempted village, or local school district proposed to be transferred voting at the last general election, requests such a transfer, the board of education of the district in which such proposal originates shall file such proposal, together with a map showing the boundaries of the territory proposed to be transferred, with the state board of education prior to the first day of April in any even-numbered year. The state board of education may, if it is advisable, provide for a hearing in any suitable place in any of the school districts affected by such proposed transfer of territory. The state board of education or its representatives shall preside at any such hearing.

A board of education of a city, exempted village, or local school district that receives a petition of transfer under this division shall cause the board of elections to check the sufficiency of signatures on the petition.

Not later than the first day of September the state board of education shall either approve or disapprove a proposed transfer of territory filed with

it as provided by this section and shall notify, in writing, the boards of education of the districts affected by such proposed transfer of territory of its decision.

If the decision of the state board of education is an approval of the proposed transfer of territory then the board of education of the district in which the territory is located shall, within thirty days after receiving the state board of education's decision, adopt a resolution transferring the territory and shall forthwith submit a copy of such resolution to the treasurer of the board of education of the city, exempted village, or local school district to which the territory is transferred. Such transfer shall not be complete however, until:

(1) A resolution accepting the transfer has been passed by a majority vote of the full membership of the board of education of the city, exempted village, or local school district to which the territory is transferred;

(2) An equitable division of the funds and indebtedness between the districts involved has been made by the board of education making the transfer;

(3) A map showing the boundaries of the territory transferred has been filed, by the board of education accepting the transfer, with the county auditor of each county affected by the transfer.

When such transfer is complete the legal title of the school property in the territory transferred shall be vested in the board of education or governing board of the school district to which the territory is transferred.

(B) Whenever the transfer of territory pursuant to this section is initiated by a board of education, the board shall, before filing a proposal for transfer with the state board of education under this section, make a good faith effort to negotiate the terms of transfer with any other school district whose territory would be affected by the transfer. Before the state board may hold a hearing on the transfer, or approve or disapprove any such transfer, it must receive the following:

(1) A resolution requesting approval of the transfer, passed by the school district submitting the proposal;

(2) Evidence determined to be sufficient by the state board to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(3) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

Negotiations held pursuant to this section shall be governed by the rules adopted by the state board under division (D) of section 3311.06 of the

Revised Code. Districts involved in a transfer under division (B) of this section may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

Sec. 3311.26. ~~A governing board of an educational service center~~ The state board of education may, by resolution adopted by majority vote of its full membership, propose the creation of a new local school district from one or more local school districts or parts thereof, including the creation of a local district with noncontiguous territory from one or more local school districts if one of those districts has entered into an agreement under section 3313.42 of the Revised Code. Such proposal shall include an accurate map showing the territory affected. After the adoption of the resolution, the ~~governing~~ state board shall file a copy of such proposal with the board of education of each school district whose boundaries would be altered by such proposal.

~~A governing board of a service center proposing~~ Upon the creation of a new district under this section, the state board shall at its next regular meeting that occurs not earlier than thirty days after the adoption by the ~~governing~~ state board of the resolution proposing such creation, adopt a resolution making the creation effective prior to the next succeeding first day of July, unless, prior to the expiration of such thirty-day period, qualified electors residing in the area included in such proposed new district, equal in number to thirty-five per cent of the qualified electors voting at the last general election, file a petition of referendum against the creation of the proposed new district.

A petition of referendum filed under this section shall be filed at the office of the ~~educational service center~~ state superintendent of public instruction. The person presenting the petition shall be given a receipt containing thereon the time of day, the date, and the purpose of the petition.

If a petition of referendum is filed, the ~~governing~~ state board shall, at the next regular meeting of the ~~governing~~ state board, certify the proposal to the board of elections for the purpose of having the proposal placed on the ballot at the next general or primary election which occurs not less than seventy-five days after the date of such certification, or at a special election, the date of which shall be specified in the certification, which date shall not be less than seventy-five days after the date of such certification.

Upon certification of a proposal to the board or boards of elections pursuant to this section, the board or boards of elections shall make the necessary arrangements for the submission of such question to the electors

of the county or counties qualified to vote thereon, and the election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

The persons qualified to vote upon a proposal are the electors residing in the proposed new districts.

If the proposed district be approved by at least a majority of the electors voting on the proposal, the governing state board shall then create such new district prior to the next succeeding first day of July, ~~and shall so notify the state board of education.~~

Upon the creation of such district, the indebtedness of each former district becoming in its entirety a part of the new district shall be assumed in full by the new district. Upon the creation of such district, that part of the net indebtedness of each former district becoming only in part a part of the new district shall be assumed by the new district which bears the same ratio to the entire net indebtedness of the former district as the assessed valuation of the part taken by the new district bears to the entire assessed valuation of the former district as fixed on the effective date of transfer. As used in this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption. Upon the creation of such district, the funds of each former district becoming in its entirety a part of the new district shall be paid over in full to the new district. Upon the creation of such district, the funds of each former district becoming only in part a part of the new district shall be divided equitably by the governing state board between the new district and that part of the former district not included in the new district as such funds existed on the effective date of the creation of the new district.

The governing state board shall, following the election, file with the county auditor of each county affected by the creation of a new district an accurate map showing the boundaries of such newly created district.

When a new local school district is so created ~~within an educational service center,~~ a board of education for such newly created district shall be appointed by the ~~educational service center governing state~~ governing state board. The members of such appointed board of education shall hold their office until their successors are elected and qualified. A board of education shall be elected for such newly created district at the next general election held in an odd numbered year occurring more than thirty days after the appointment of the board of education of such newly created district. At such election two members shall be elected for a term of two years and three members shall be

elected for a term of four years, and, thereafter, their successors shall be elected in the same manner and for the same terms as members of the board of education of a local school district.

When the new district consists of territory lying in two or more counties, the state board shall determine to which educational service center the new district shall be assigned.

The legal title of all property of the board of education in the territory taken shall become vested in the board of education of the newly created school district.

Foundation program moneys accruing to a district created under the provisions of this section or previous section 3311.26 of the Revised Code, shall not be less, in any year during the next succeeding three years following the creation, than the sum of the amounts received by the districts separately in the year in which the creation of the district became effective.

If, prior to the effective date of this amendment, a local school district board of education or a group of individuals requests the governing board of an educational service center to consider proposing the creation of a new local school district, the governing board, at any time during the one-year period following the date that request is made, may adopt a resolution proposing the creation of a new local school district in response to that request and in accordance with the first paragraph of the version of this section in effect prior to the effective date of this amendment. If the governing board so proposes within that one-year period, the governing board may proceed to create the new local school district as it proposed, in accordance with the version of this section in effect prior to the effective date of this amendment, subject to the provisions of that version authorizing a petition and referendum on the matter.

Consolidations of school districts which include all of the schools of a county and which become effective on or after July 1, 1959, shall be governed and included under this section.

Sec. 3313.843. (A) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to either of the following:

(1) Any cooperative education school district;

(2) Any city or exempted village school district with a total student count of thirteen thousand or more determined pursuant to section 3317.03 of the Revised Code that has not entered into one or more agreements pursuant to this section prior to July 1, 1993, unless the district's total student count did not exceed thirteen thousand at the time it entered into an initial agreement under this section.

(B) The board of education of a city or exempted village school district

and the governing board of an educational service center with territory in a county in which the city or exempted village school district also has territory may enter into an agreement, through adoption of identical resolutions, under which the educational service center governing board will provide services to the city or exempted village school district.

Services provided under the agreement shall be specified in the agreement, and may include any one or a combination of the following: supervisory teachers; in-service and continuing education programs for city or exempted village school district personnel; curriculum services as provided to the local school districts under the supervision of the service center governing board; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; and assistance in the provision of special accommodations and classes for handicapped students. Services included in the agreement shall be provided to the city or exempted village district in the same manner they are provided to local school districts under the governing board's supervision, unless otherwise specified in the agreement. The city or exempted village board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code.

(C)(1) If an educational service center received funding under division (B) of former section 3317.11 or division (F) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose total student count was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any subsequent year if the city district's total student count exceeds thirteen thousand. However, only the first thirteen thousand pupils in the formula ADM of such district shall be included in determining the amount of the per pupil subsidy the service center shall receive under division ~~(B)~~(F) of section 3317.11 of the Revised Code.

(2) If, prior to ~~the effective date of this amendment~~ July 1, 1998, an educational service center received funding under division (B) of former section 3317.11 of the Revised Code for a period of at least three years, for a good faith agreement under this section involving a city school district with no territory in the county in which the educational service center has territory, that educational service center and that city school district may enter into an agreement under this section, and the service center shall receive funding under division ~~(B)~~(F) of section 3317.11 of the Revised Code for any such agreement, notwithstanding the territorial boundaries of the service center and the city school district.

(D) Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of the school year for which the agreement is in effect.

Sec. 3313.975. As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program and shall include in such program any school districts that are or have ever been under federal court order requiring supervision and operational management of the district by the state superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program. In no case, however, shall more than fifty per cent of all scholarships awarded be used by students who were enrolled in a nonpublic school during the school year of application for a scholarship.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, no new students may receive scholarships unless they are enrolled in grade kindergarten, one, two, or three. However, any student who has received a scholarship the preceding year may continue to receive one until the student has completed grade eight. Beginning in the 2003-2004 academic year, a student who previously has received a scholarship may receive a scholarship in grade nine. Beginning in the 2004-2005 academic year, a student who previously has received a scholarship may receive a scholarship in grade ten.

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades up to the ~~eighth~~ tenth grade that are provided in such school, under the same

conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot project school district;

(2) The school indicates in writing its commitment to follow all requirements for a state-sponsored scholarship program specified under sections 3313.974 to 3313.979 of the Revised Code, including, but not limited to, the requirements for admitting students pursuant to section 3313.977 of the Revised Code;

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

(4) The school does not discriminate on the basis of race, religion, or ethnic background;

(5) The school enrolls a minimum of ten students per class or a sum of at least twenty-five students in all the classes offered;

(6) The school does not advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion;

(7) The school does not provide false or misleading information about the school to parents, students, or the general public;

(8) ~~The~~ For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families participating in receiving ninety per cent of the scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of ten per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit any such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(9) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving a seventy-five per cent scholarship amount through the scholarship program, pursuant to division (A) of section 3313.978 of the Revised Code, in excess of the difference between the actual tuition charge of the school and seventy-five per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, excluding any increase described in division (C)(2) of that section. The school shall permit such tuition, at the discretion of the parent, to be satisfied by the low-income family's provision of in-kind contributions or services.

(10) The school agrees not to charge any tuition to families of students in grades nine and ten receiving a scholarship in excess of the actual tuition charge of the school less seventy-five or ninety per cent of the scholarship amount established pursuant to division (C)(1) of section 3313.978 of the Revised Code, as applicable, excluding any increase described in division (C)(2) of that section.

(B) The state superintendent shall revoke the registration of any school if, after a hearing, the superintendent determines that the school is in violation of any of the provisions of division (A) of this section.

(C) Any public school located in a school district adjacent to the pilot project district may receive scholarship payments on behalf of parents pursuant to section 3313.979 of the Revised Code if the superintendent of the district in which such public school is located notifies the state superintendent prior to the first day of March that the district intends to

admit students from the pilot project district for the ensuing school year pursuant to section 3327.06 of the Revised Code.

(D) Any parent wishing to purchase tutorial assistance from any person or governmental entity pursuant to the pilot project program under sections 3313.974 to 3313.979 of the Revised Code shall apply to the state superintendent. The state superintendent shall approve providers who appear to possess the capability of furnishing the instructional services they are offering to provide.

Sec. 3313.977. (A)(1) Each registered private school shall admit students to kindergarten and first, second, and third grades in accordance with the following priorities:

(a) Students who were enrolled in the school during the preceding year;
(b) Siblings of students enrolled in the school during the preceding year, at the discretion of the school;

(c) Children from low-income families attending school or residing in the school district in which the school is located until the number of such students in each grade equals the number that constituted twenty per cent of the total number of students enrolled in the school during the preceding year in such grade. Admission of such twenty per cent shall be by lot from among all low-income family applicants who apply prior to the fifteenth day of February prior to admission.

(d) All other applicants residing anywhere, provided that all remaining available spaces shall be filled from among such applicants by lot.

Children from low-income families not selected by lot under division (A)(1)(c) of this section shall be included in the lottery of all remaining applicants pursuant to division (A)(1)(d) of this section.

(2) Each registered private school shall first admit to grades four through ~~eight~~ ten students who were enrolled in the school during the preceding year. Any remaining spaces for students in these grades may be filled as determined by the school.

(B) Notwithstanding division (A) of this section, except where otherwise prohibited by federal law, a registered private school may elect to admit students of only one gender and may deny admission to any separately educated handicapped student.

(C) If a scholarship student who has been accepted in accordance with this section fails to enroll in the school for any reason or withdraws from the school during the school year for any reason, the school may elect to replace such student with another scholarship student only by first offering the admission to any low-income scholarship students who filed applications by the preceding fifteenth day of February and who were not accepted at that

time due to space limitations.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through third.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is

admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or an amount established by the state superintendent not in excess of ~~twenty-five hundred~~ three thousand dollars.

In the case of basic scholarships for students in grades nine and ten, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or an amount established by the state superintendent not in excess of two thousand seven hundred dollars.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed handicapped student and shall further increase such amount in the case of any separately educated handicapped child. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount.

(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

Sec. 3313.979. Each scholarship ~~or grant~~ to be used for payments to a registered private school ~~or to an approved tutorial assistance provider~~ is payable to the parents of the student entitled to the scholarship ~~or grant~~. Each scholarship to be used for payments to a public school in an adjacent school district is payable to the school district of attendance by the superintendent of public instruction. Each grant to be used for payments to an approved tutorial assistance provider is payable to the approved tutorial assistance provider.

(A)(1) By the fifteenth day of each month of the school year that any scholarship students are enrolled in a registered private school, the chief administrator of that school shall notify the state superintendent of:

(a) The number of students who were reported to the school district as having been admitted by that private school pursuant to division (A)(2)(b) of section 3313.978 of the Revised Code and who were still enrolled in the private school as of the first day of such month, and the numbers of such

students who qualify for seventy-five and ninety per cent of the scholarship amount;

(b) The number of students who were reported to the school district as having been admitted by another private school pursuant to division (A)(2)(b) of section 3313.978 of the Revised Code and since the date of admission have transferred to the school providing the notification under division (A)(1) of this section, and the numbers of such students who qualify for seventy-five and ninety per cent of the scholarship amount.

(2) From time to time, the state superintendent shall make a payment to the parent of each student entitled to a scholarship. Each payment shall include for each student reported under division (A)(1) of this section, a portion of seventy-five or ninety per cent, as applicable, of the scholarship amount specified in divisions (C)(1) and (2) of section 3313.978 of the Revised Code. This amount shall be proportionately reduced in the case of any such student who is not enrolled in a registered private school for the entire school year.

(3) The first payment under this division shall be made by the last day of November and shall equal one-third of seventy-five or ninety per cent, as applicable, of the estimated total amount that will be due to the parent for the school year pursuant to division (A)(2) of this section.

(B) The state superintendent, on behalf of the parents of a scholarship student enrolled in a public school in an adjacent school district pursuant to section 3327.06 of the Revised Code, shall make the tuition payments required by that section to the school district admitting the student, except that, notwithstanding sections 3323.13, 3323.14, and 3327.06 of the Revised Code, the total payments in any school year shall not exceed seventy-five or ninety per cent, as applicable, of the scholarship amount provided in divisions (C)(1) and (2) of section 3313.978 of the Revised Code.

(C) Whenever an approved provider provides tutorial assistance to a student, the state superintendent shall pay the parent approved provider for such costs upon receipt of a statement ~~from the parent~~ specifying the services provided and the costs of the services, which statement shall be signed by the provider and verified by the chief administrator having supervisory control over the tutoring site. The total payments to any ~~parent approved provider~~ under this division for all provider services to any individual student in any school year shall not exceed seventy-five or ninety per cent, as applicable, of the grant amount provided in division (C)(3) of section 3313.978 of the Revised Code.

Sec. 3313.981. (A) The state board shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an

adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount for the district;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the full-time equivalent number of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section.

(C) To the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the adjusted formula amount for the district multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to the formula amount times the applicable multiple prescribed by that section;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to ~~one-fourth~~ twenty per cent of the adjusted formula amount for the district.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) An amount equal to the adjusted formula amount of the city, exempted village, or local school district in which the student is also enrolled;

(2) An amount equal to the full-time equivalent number of students reported pursuant to division (A)(2)(b) of this section times the formula amount times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount for the district from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from

school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received under division (D) of section 3317.022 of the Revised Code for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district;

(d) An urban school district.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in non-classroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and non-computer-based learning opportunities.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, or exempted village school district in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center ~~as long as the proposed school will be located in a county within the territory of the service center or in a county contiguous to such county;~~

(e) A sponsoring authority designated by the board of trustees of any of

the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code.

Until July 1, 2005, any entity described in division (C)(1)(f) of this section may sponsor only schools that formerly were sponsored by the state board of education under division (C)(1)(d) of this section, as it existed prior to April 8, 2003. After July 1, 2005, such entity may sponsor any new or existing school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school or establish the new start-up school. Up to the statewide limit prescribed in section 3314.013 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals who are not owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(F) Nothing in this chapter shall be construed to permit the establishment of a community school in more than one school district under the same contract.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to ~~the effective date of this amendment~~ April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after ~~the effective date of this amendment~~ April 8, 2003;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall

include the statewide achievement tests;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five ~~cumulative~~ consecutive hours of the learning opportunities offered to the student. Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10,

4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters that is not a contract with a for-profit firm for the operation or management of a school under the auspices of the governing authority;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor, the parents of all students enrolled in the school, and the legislative office of education oversight. The school will collect and provide any data that the legislative office of education oversight requests in furtherance of any study or research that the general assembly requires the office to conduct, including the studies required under Section 50.39 of Am. Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd general assembly, as amended.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding

calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of disadvantaged pupil impact aid calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in section 3314.06 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the

facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the

organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

Sec. 3314.041. The governing authority of each community school and any operator of such school shall ~~place in a conspicuous manner in all documents that are distributed~~ distribute to parents of students of the school ~~or to the general public upon their enrollment in the school~~ the following statement in writing:

"The (here fill in name of the school) school is a community school established under Chapter 3314. of the Revised Code. The school is a public school and students enrolled in and attending the school are required to take proficiency tests and other examinations prescribed by law. In addition, there may be other requirements for students at the school that are prescribed by law. Students who have been excused from the compulsory attendance law for the purpose of home education as defined by the Administrative Code shall no longer be excused for that purpose upon their enrollment in a community school. For more information about this matter contact the school administration or the Ohio Department of Education."

Sec. 3314.07. (A) The expiration of the contract for a community school between a sponsor and a school shall be the date provided in the contract. A successor contract may be entered into pursuant to division (E) of section 3314.03 of the Revised Code unless the contract is terminated or not renewed pursuant to this section.

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.

(3) At least ninety days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within seventy days of the receipt of a request for the hearing. Promptly following the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.

(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.

(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:

(a) Ninety days following the date the sponsor notifies the school of its decision to terminate the contract as prescribed in division (B)(3) of this section;

(b) If an informal hearing is requested under division (B)(3) of this section and as a result of that hearing the sponsor affirms its decision to terminate the contract, the effective date of the termination specified in the

notice issued under division (B)(3) of this section, or if that decision is appealed to the state board under division (B)(4) of this section and the state board affirms that decision, the date established in the resolution of the state board affirming the sponsor's decision.

(6) Any community school whose contract is terminated under this division shall not enter into a contract with any other sponsor.

(C) A child attending a community school whose contract has been terminated, nonrenewed, or suspended or that closes for any reason shall be admitted to the schools of the district in which the child is entitled to attend under section 3313.64 or 3313.65 of the Revised Code. Any deadlines established for the purpose of admitting students under section 3313.97 or 3313.98 of the Revised Code shall be waived for students to whom this division pertains.

(D) If a community school does not intend to renew a contract with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract.

(E) A sponsor of a community school and the officers, directors, or employees of such a sponsor are not liable in damages in a tort or other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

~~(E)~~(F) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(5) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the DPIA student count" of a school district if the student is entitled to attend school in the district and:

(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.

(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.

(8) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, 3317.0212, 3317.0213, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), and (M) of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend

school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) ~~One-fourth~~ Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any DPIA reduction factor that applies to a school year.

(C) From the ~~payments~~ SF-3 payment made to a city, exempted village, or local school district ~~under Chapter 3317. of the Revised Code~~ and, if necessary, from the payment made to the district under sections 321.14

321.24 and 323.156 of the Revised Code, the department of education shall annually subtract ~~all~~ the sum of the following amounts described in divisions (C)(1) to (6) of this section. However, the aggregate amount deducted under this division shall not exceed the sum of the district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's DPIA student count is multiplied by the per pupil amount of disadvantaged pupil impact aid the school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of that community school. If the district receives disadvantaged pupil impact aid under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the district's DPIA student

count, as defined in that section. If the district receives disadvantaged pupil impact aid under division (C) of section 3317.029 of the Revised Code, the per pupil amount of that aid is the per pupil dollar amount prescribed for the district in division (C)(1) or (2) of that section.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter ~~all the sum of the following:~~ amounts described in divisions (D)(1) to (7) of this section. However, the sum of the payments to all community schools under divisions (D)(1), (2), (4), (5), (6), and (7) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's SF-3 payment and its payment under sections 321.24

and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code is multiplied by the community school's base formula amount, as adjusted by the cost-of-doing-business factor of the school district in which the student is entitled to attend school;

(2) The greater of the following:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:

(the community school's base formula amount

X the cost-of-doing-business factor
of the district where the student
is entitled to attend school) +

(the applicable special education weight X
the community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public

instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's DPIA student count is multiplied by the per pupil amount of disadvantaged pupil impact aid that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool handicapped or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any

portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after ~~the effective date of this amendment~~ April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section. For purposes of this section:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time between the date on which the school both has received documentation of the student's enrollment from a parent and has commenced participation in learning opportunities as defined in the contract with the sponsor. For purposes of applying this division to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school unless ~~the~~ both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are fully operational and the so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A)(1) or (2) of section 3314.032 of the Revised Code, relative to such student. ~~in~~

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any internet- or computer-based community school that includes in its program the provision of computer hardware and software materials to each student, if such hardware and software materials have not been delivered, installed, and activated for all students in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such internet- or computer-based schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

Sec. 3314.083. If the department of education pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student who is enrolled in a community school, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the amount calculated for payment to the community school under section 3314.08 of the Revised Code.

Sec. 3314.17. (A) Each community school established under this chapter shall participate in the statewide education management information system established under section 3301.0714 of the Revised Code. All provisions of that section and the rules adopted under that section apply to each community school as if it were a school district, except as modified for community schools under division (B) of this section.

(B) The rules adopted by the state board of education under section 3301.0714 of the Revised Code may distinguish methods and timelines for community schools to annually report data, which methods and timelines differ from those prescribed for school districts. Any methods and timelines prescribed for community schools shall be appropriate to the academic schedule and financing of community schools. The guidelines, however, shall not modify the actual data required to be reported under that section.

(C) Each fiscal officer appointed under section 3314.011 of the Revised Code is responsible for annually reporting the community school's data under section 3301.0714 of the Revised Code. If the superintendent of public instruction determines that a community school fiscal officer has willfully failed to report data or has willfully reported erroneous, inaccurate, or incomplete data in any year, or has negligently reported erroneous, inaccurate, or incomplete data in the current and any previous year, the superintendent may impose a civil penalty of one hundred dollars on the fiscal officer after providing the officer with notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. The superintendent's authority to impose civil penalties under this division does not preclude the state board of education from suspending or revoking the license of a community school employee under division (N) of section 3301.0714 of the Revised Code.

(D) No community school shall acquire, change, or update its student

administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

Sec. 3316.031. (A) The state superintendent of public instruction, in consultation with the auditor of state, shall develop guidelines for identifying fiscal practices and budgetary conditions that, if uncorrected, could result in a future declaration of a fiscal watch or fiscal emergency within a school district.

The guidelines shall not include a requirement that a school district submit financial statements according to generally accepted accounting principles.

(B)(1) If the state superintendent determines from a school district's five-year forecast submitted under section 5705.391 of the Revised Code that a district is engaging in any of those practices or that any of those conditions exist within the district, after consulting with the district board of education concerning the practices or conditions, the state superintendent may declare the district to be under a fiscal caution.

(2) If the auditor of state finds that a district is engaging in any of those practices or that any of those conditions exist within the district, the auditor of state shall report that finding to the state superintendent and, after consulting with the district board of education concerning the practices or conditions, the state superintendent may declare the district to be under a fiscal caution.

(3) Unless the auditor of state has elected to declare a state of fiscal watch under division (A)(4) of section 3316.03 of the Revised Code, the state superintendent shall declare a school district to be under a fiscal caution if the conditions described in divisions (A)(4)(a) and (b) of that section are both satisfied with respect to the school district.

(C) When the state superintendent declares a district to be under fiscal caution, the state superintendent shall promptly notify the district board of education of that declaration and shall request the board to provide written proposals for discontinuing or correcting the fiscal practices or budgetary conditions that prompted the declaration and for preventing the district from experiencing further fiscal difficulties that could result in the district being declared to be in a state of fiscal watch or fiscal emergency.

(D) The state superintendent, or a designee, may visit and inspect any district that is declared to be under a fiscal caution. The department of education shall provide technical assistance to the district board in implementing proposals to eliminate the practices or budgetary conditions that prompted the declaration of fiscal caution and may make

recommendations concerning the board's proposals.

(E) If the state superintendent finds that a school district declared to be under a fiscal caution has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal caution, and if the state superintendent considers it necessary to prevent further fiscal decline, the state superintendent may determine that the district should be in a state of fiscal watch. As provided in division (A)(3) of section 3316.03 of the Revised Code, the auditor of state shall declare the district to be in a state of fiscal watch if the auditor of state finds the superintendent's determination to be reasonable.

Sec. 3316.08. During a school district's fiscal emergency period, the auditor of state shall determine annually, or at any other time upon request of the financial planning and supervision commission, whether the school district will incur an operating deficit. If the auditor of state determines that a school district will incur an operating deficit, the auditor of state shall certify that determination to the superintendent of public instruction, the financial planning and supervision commission, and the board of education of the school district. Upon receiving the auditor of state's certification, the ~~board of education or~~ commission shall adopt a resolution ~~to submit a ballot question proposing the levy of a tax~~ requesting that the board of education work with the county auditor or tax commissioner to estimate the amount and rate of a tax levy that is needed under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code to produce a positive fund balance not later than the fifth year of the five-year forecast submitted under section 5705.391 of the Revised Code. Except

The board of education shall recommend to the commission whether the board supports or opposes a tax levy under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code and shall provide supporting documentation to the commission of its recommendation.

After considering the board of education's recommendation and supporting documentation, the commission shall adopt a resolution to either submit a ballot question proposing a tax levy or not to submit such a question.

Except as otherwise provided in this division, the tax shall be levied in the manner prescribed for a tax levied under section 5705.194 or 5705.21 or under Chapter 5748. of the Revised Code. ~~The~~ If the commission decides that a tax ~~shall~~ should be levied, the tax shall be levied for the purpose of paying current operating expenses of the school district. ~~The question shall propose that the tax be levied at the rate required to produce annual revenue~~

~~sufficient to eliminate the operating deficit as certified by the auditor of state and to repay outstanding loans or other obligations incurred by the board of education for the purpose of reducing or eliminating operating deficits, as determined by the financial planning and supervision commission.~~ The rate of a tax levied under section 5705.194 or 5705.21 of the Revised Code shall be determined by the county auditor, and the rate of a tax levied under section 5748.02 or 5748.08 of the Revised Code shall be determined by the tax commissioner, upon the request of the commission. The commission, in consultation with the board of education, shall determine the election at which the question of the tax shall appear on the ballot, and the ~~board of education or~~ commission shall submit a copy of its resolution to the board of elections not later than seventy-five days prior to the day of that election. The board of elections conducting the election shall certify the results of the election to the board of education and to the financial planning and supervision commission.

Sec. 3317.012. (A)(1) The general assembly, having analyzed school district expenditure and cost data for fiscal year 1999, performed the calculation described in division (B) of this section, adjusted the results for inflation, and added the amounts described in division (A)(2) of this section, hereby determines that the base cost of an adequate education per pupil for the fiscal year beginning July 1, 2001, is \$4,814. ~~For the five following fiscal years, the~~ The base cost per pupil for each of those years, reflecting an annual rate of inflation of two and eight-tenths per cent, is \$4,949 for fiscal year 2003, \$5,088. The base cost per pupil, reflecting an annual rate of inflation of two and two-tenths per cent, is \$5,058 for fiscal year 2004; \$5,230 and \$5,169 for fiscal year 2005; \$5,376 for fiscal year 2006, and \$5,527 for fiscal year 2007.

(2) The base cost per pupil amounts specified in division (A)(1) of this section include amounts to reflect the cost to school districts of increasing the minimum number of high school academic units required for graduation beginning September 15, 2001, under section 3313.603 of the Revised Code. Analysis of fiscal year 1999 data revealed that the school districts meeting the requirements of division (B) of this section on average required high school students to complete a minimum of nineteen and eight-tenths units to graduate. The general assembly determines that the cost of funding the additional two-tenths unit required by section 3313.603 of the Revised Code is \$12 per pupil in fiscal year 2002. This amount was added after the calculation described in division (B) of this section and the adjustment for inflation from fiscal year 1999 to fiscal year 2002. It is this total amount, the calculated base cost plus the supplement to pay for the additional partial

unit, that constitutes the base cost amount specified in division (A)(1) of this section for fiscal year 2002 and that is inflated to produce the base cost amounts for fiscal years 2003 through ~~2007~~ 2005.

(B) In determining the base cost stated in division (A) of this section, capital and debt costs, costs paid for by federal funds, and costs covered by funds provided for disadvantaged pupil impact aid and transportation were excluded, as were the effects on the districts' state funds of the application of the cost-of-doing-business factors, assuming a seven and one-half per cent variance.

The base cost for fiscal year 1999 was calculated as the unweighted average cost per student, on a school district basis, of educating students who were not receiving vocational education or services pursuant to Chapter 3323. of the Revised Code and who were enrolled in a city, exempted village, or local school district that in fiscal year 1999 met all of the following criteria:

(1) The district met at least twenty of the following twenty-seven performance indicators:

(a) A ninety per cent or higher graduation rate;

(b) At least seventy-five per cent of fourth graders proficient on the mathematics test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(c) At least seventy-five per cent of fourth graders proficient on the reading test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(d) At least seventy-five per cent of fourth graders proficient on the writing test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(e) At least seventy-five per cent of fourth graders proficient on the citizenship test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(f) At least seventy-five per cent of fourth graders proficient on the science test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(g) At least seventy-five per cent of sixth graders proficient on the mathematics test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(h) At least seventy-five per cent of sixth graders proficient on the reading test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(i) At least seventy-five per cent of sixth graders proficient on the

writing test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(j) At least seventy-five per cent of sixth graders proficient on the citizenship test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(k) At least seventy-five per cent of sixth graders proficient on the science test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(l) At least seventy-five per cent of ninth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(m) At least seventy-five per cent of ninth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(n) At least seventy-five per cent of ninth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(o) At least seventy-five per cent of ninth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(p) At least seventy-five per cent of ninth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(q) At least eighty-five per cent of tenth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(r) At least eighty-five per cent of tenth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(s) At least eighty-five per cent of tenth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(t) At least eighty-five per cent of tenth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(u) At least eighty-five per cent of tenth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(v) At least sixty per cent of twelfth graders proficient on the mathematics test prescribed under former division (A)(3) of section

3301.0710 of the Revised Code;

(w) At least sixty per cent of twelfth graders proficient on the reading test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(x) At least sixty per cent of twelfth graders proficient on the writing test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(y) At least sixty per cent of twelfth graders proficient on the citizenship test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code.

In determining whether a school district met any of the performance standards specified in divisions (B)(1)(a) to (aa) of this section, the general assembly used a rounding procedure previously recommended by the department of education. It is the same rounding procedure the general assembly used in 1998 to determine whether a district had met the standards of former divisions (B)(1)(a) to (r) of this section for purposes of constructing the previous model based on fiscal year 1996 data.

(2) The district was not among the five per cent of all districts with the highest income, nor among the five per cent of all districts with the lowest income.

(3) The district was not among the five per cent of all districts with the highest valuation per pupil, nor among the five per cent of all districts with the lowest valuation per pupil.

This model for calculating the base cost of an adequate education is expenditure-based. The general assembly recognizes that increases in state funding to school districts since fiscal year 1996, the fiscal year upon which the general assembly based its model for calculating state funding to school districts for fiscal years 1999 through 2001, has increased school district base cost expenditures for fiscal year 1999, the fiscal year upon which the general assembly based its model for calculating state funding for fiscal years 2002 through ~~2007~~ 2005. In the case of school districts included in the fiscal year 1999 model that also had met the fiscal year 1996 performance criteria of former division (B)(1) of this section, the increased state funding may have driven the districts' expenditures beyond the expenditures that were actually needed to maintain their educational programs at the level

necessary to maintain their ability to meet the fiscal year 1999 performance criteria of current division (B)(1) of this section. The general assembly has determined to control for this effect by stipulating in the later model that the fiscal year 1999 base cost expenditures of the districts that also met the performance criteria of former division (B)(1) of this section equals their base cost expenditures per pupil for fiscal year 1996, inflated to fiscal year 1999 using an annual rate of inflation of two and eight-tenths per cent. However, if this inflated amount exceeded the district's actual fiscal year 1999 base cost expenditures per pupil, the district's actual fiscal year 1999 base cost expenditures per pupil were used in the calculation. For districts in the 1999 model that did not also meet the performance criteria of former division (B)(1) of this section, the actual 1999 base cost per pupil expenditures were used in the calculation of the average district per pupil costs of the model districts.

~~(C) In July of 2005, and in July of every six years thereafter, the speaker of the house of representatives and the president of the senate shall each appoint three members to a committee to reexamine the cost of an adequate education. No more than two members from any political party shall represent each house. The director of budget and management and the superintendent of public instruction shall serve as nonvoting ex officio members of the committee.~~

~~The committee shall select a rational methodology for calculating the costs of an adequate education system for the ensuing six year period, and shall report the methodology and the resulting costs to the general assembly. In performing its function, the committee is not bound by any method used by previous general assemblies to examine and calculate costs and instead may utilize any rational method it deems suitable and reasonable given the educational needs and requirements of the state at that time.~~

~~The methodology for determining the cost of an adequate education system shall take into account the basic educational costs that all districts incur in educating regular students, the unique needs of special categories of students, and significant special conditions encountered by certain classifications of school districts.~~

~~The committee also shall redetermine, for purposes of updating the parity aid calculation under section 3317.0217 of the Revised Code, the average number of effective operating mills that school districts in the seventieth to ninetieth percentiles of valuations per pupil collect above the revenues required to finance their attributed local shares of the calculated cost of an adequate education.~~

~~Any committee appointed pursuant to this section shall make its report~~

~~to the office of budget and management and the general assembly within one year of its appointment so that the information is available for use by the office and the general assembly in preparing the next biennial appropriations act.~~

~~(D)(1) For purposes of this division, an "update year" is the first fiscal year for which the per pupil base cost of an adequate education is in effect after being recalculated by the general assembly. The first update year is fiscal year 2002. The second update year is fiscal year 2008.~~

~~(2) The general assembly shall recalculate the per pupil base cost of an adequate education every six years after considering the recommendations of the committee appointed under division (C) of this section. At the time of the recalculation, for each of the five fiscal years following the update year, the general assembly shall adjust the base cost recalculated for the update year using an annual rate of inflation that the general assembly determines appropriate.~~

~~(3) The general assembly shall include, in the act appropriating state funds for education programs for a fiscal biennium that begins with an update year, a statement of its determination of the total state share percentage of base cost and parity aid funding for the update year.~~

~~(4) During its biennial budget deliberations, the general assembly shall determine the total state share percentage of base cost and parity aid funding for each fiscal year of the upcoming biennium. This determination shall be based on the latest projections and data provided by the department of education under division (D)(6) of this section prior to the enactment of education appropriations for the upcoming biennium. If, based on those latest projections and data, the general assembly determines that the total state share percentage for either or both nonupdate fiscal years varies more than two and one half percentage points more or less than the total state share percentage for the most recent update year, as previously stated by the general assembly under division (D)(3) of this section, the general assembly shall determine and enact a method that it considers appropriate to restrict the estimated variance for each year to within two and one half percentage points. The general assembly's methods may include, but are not required to include and need not be limited to, reexamining the rate of millage charged off as the local share of base cost funding under divisions (A)(1) and (2) of section 3317.022 of the Revised Code. Regardless of any changes in charge-off millage rates in years between update years, however, the charge-off millage rate for update years shall be twenty three mills, unless the general assembly determines that a different millage rate is more appropriate to share the total calculated base cost between the state and~~

school districts.

~~(5) The total state share percentage of base cost and parity aid funding for any fiscal year is calculated as follows:~~

~~$$\frac{[(\text{Total state base cost} + \text{total state parity aid funding}) - \text{statewide charge-off amount}]}{(\text{Total state base cost} + \text{total state parity aid funding})}$$~~

~~Where:~~

~~(a) The total state base cost equals the sum of the base costs for all school districts for the fiscal year.~~

~~(b) The base cost for each school district equals:~~

~~formula amount X cost-of-doing-business factor X~~

~~the greater of formula ADM or~~

~~three-year average formula ADM~~

~~(c) The total state parity aid funding equals the sum of the amounts paid to all school districts for the fiscal year under section 3317.0217 of the Revised Code.~~

~~(d) The statewide charge-off amount equals the sum of the charge-off amounts for all school districts.~~

~~(e) The charge-off amount for each school district is the amount calculated as its local share of base cost funding and deducted from the total calculated base cost to determine the amount of its state payment under divisions (A)(1) and (2) of section 3317.022 of the Revised Code. The charge-off amount for each school district in fiscal year 2002 is the product of twenty three mills multiplied by the district's recognized valuation as adjusted, if applicable, under division (A)(2) of section 3317.022 of the Revised Code. If however, in any fiscal year, including fiscal year 2002, a school district's calculated charge-off amount exceeds its base cost calculated as described in division (D)(5)(b) of this section, the district's charge-off amount shall be deemed to equal its calculated base cost.~~

~~(6) Whenever requested by the chairperson of the standing committee of the house or representatives or the senate having primary jurisdiction over appropriations, the legislative budget officer, or the director of budget and management, the department of education shall report its latest projections for total base cost, total parity aid funding, and the statewide charge-off amount, as those terms are defined in division (D)(5) of this section, for each year of the upcoming fiscal biennium, and all data it used to make the projections.~~

Sec. 3317.013. This section does not apply to handicapped preschool students.

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of

related services, can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of 0.2892 for students whose primary or only identified handicap is a speech and language handicap, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of 0.3691 for students identified as specific learning disabled or developmentally handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or other health handicapped-minor;

(C) A multiple of 1.7695 for students identified as hearing handicapped, vision impaired, or severe behavior handicapped, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of 2.3646 for students identified as orthopedically handicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code or other health handicapped - major;

(E) A multiple of 3.1129 for students identified as multihandicapped, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of 4.7342 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal year ~~2002~~ 2004, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by ~~0.825~~ 0.88. In fiscal year ~~2003~~ 2005, the multiples specified in those divisions shall be adjusted by multiplying them by ~~0.875~~ 0.90.

Not later than May 30, 2004, and May 30, 2005, the department shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.

Sec. 3317.014. The average vocational education additional cost per pupil can be expressed as a multiple of the base cost per pupil calculated under section 3317.012 of the Revised Code. the multiples for the following categories of vocational education programs are as follows:

(A) A multiple of 0.57 for students enrolled in vocational education job-training and workforce development programs approved by the department of education in accordance with rules adopted under section

3313.90 of the Revised Code.

(B) A multiple of 0.28 for students enrolled in vocational education classes other than job-training and workforce development programs.

Vocational education associated services costs can be expressed as a multiple of 0.05 of the base cost per pupil calculated under section 3317.012 of the Revised Code.

The general assembly has adjusted the multiples specified in this section for calculating payments beginning in fiscal year 2002 in recognition that its policy change regarding the application of the cost-of-doing-business factor produces a higher base cost amount than would exist if no change were made to its application. The adjustment maintains the same weighted costs as would exist if no change were made to the application of the cost-of-doing-business factor.

The department of education shall annually report to the governor and the general assembly the amount of weighted funding for vocational education and associated services that is spent by each city, local, exempted village, and joint vocational school district specifically for vocational educational and associated services.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means the base cost for the fiscal year specified in section 3317.012 of the Revised Code.

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D)(1) "Formula ADM" means, for a city, local, or exempted village school district, the number reported pursuant to division (A) of section 3317.03 of the Revised Code, and for a joint vocational school district, the number reported pursuant to division (D) of that section.

(2) "Three-year average formula ADM" means the average of formula ADMs for the current and preceding two fiscal years. However, as applicable in fiscal years 1999 and 2000, the three-year average for city, local, and exempted village school districts shall be determined utilizing the FY 1997 ADM or FY 1998 ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal years 2000 and 2001, the three-year average for joint

vocational school districts shall be determined utilizing the average daily membership reported in fiscal years 1998 and 1999 under division (D) of section 3317.03 of the Revised Code in lieu of formula ADM for fiscal years 1998 and 1999.

(E) "FY 1997 ADM" or "FY 1998 ADM" means the school district's average daily membership reported for the applicable fiscal year under the version of division (A) of section 3317.03 of the Revised Code in effect during that fiscal year, adjusted as follows:

(1) Minus the average daily membership of handicapped preschool children;

(2) Minus one-half of the average daily membership attending kindergarten;

(3) Minus three-fourths of the average daily membership attending a joint vocational school district;

(4) Plus the average daily membership entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district but receiving educational services in approved units from an educational service center or another school district under a compact or a cooperative education agreement, as determined by the department;

(5) Minus the average daily membership receiving educational services from the district in approved units but entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in another school district, as determined by the department.

(F)(1) "Category one special education ADM" means the average daily membership of handicapped children receiving special education services for the handicap specified in division (A) of section 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of handicapped children receiving special education services for those handicaps specified in division (B) of section 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those handicaps specified in division (C) of section 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those

handicaps specified in division (D) of section 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the handicap specified in division (E) of section 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the handicap specified in division (F) of section 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(G) "Handicapped preschool child" means a handicapped child, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County MR/DD board" means a county board of mental retardation and developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.

(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.

(L) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(M) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under

divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(N) "Cost-of-doing-business factor" means the amount indicated in this division for the county in which a city, local, exempted village, or joint vocational school district is located. If a city, local, or exempted village school district is located in more than one county, the factor is the amount indicated for the county to which the district is assigned by the state department of education. If a joint vocational school district is located in more than one county, the factor is the amount indicated for the county in which the joint vocational school with the greatest formula ADM operated by the district is located.

COUNTY	COST-OF-DOING-BUSINESS FACTOR AMOUNT
Adams	~~1.0061~~ <u>1.0035</u>
Allen	~~1.0236~~ <u>1.0206</u>
Ashland	~~1.0331~~ <u>1.0297</u>
Ashtabula	~~1.0431~~ <u>1.0397</u>
Athens	~~1.0038~~ <u>1.0014</u>
Auglaize	~~1.0272~~ <u>1.0247</u>
Belmont	~~1.0043~~ <u>1.0064</u>
Brown	~~1.0207~~ <u>1.0177</u>
Butler	~~1.0663~~ <u>1.0646</u>
Carroll	~~1.0148~~ <u>1.0137</u>
Champaign	~~1.0413~~ <u>1.0446</u>
Clark	~~1.0443~~ <u>1.0447</u>
Clermont	~~1.0532~~ <u>1.0541</u>
Clinton	~~1.0296~~ <u>1.0329</u>
Columbiana	~~1.0262~~ <u>1.0214</u>
Coshocton	~~1.0200~~ <u>1.0173</u>
Crawford	~~1.0140~~ <u>1.0164</u>
Cuyahoga	~~1.0672~~ <u>1.0626</u>
Darke	~~1.0343~~ <u>1.0338</u>
Defiance	~~1.0165~~ <u>1.0146</u>
Delaware	~~1.0479~~ <u>1.0528</u>
Erie	~~1.0372~~ <u>1.0388</u>
Fairfield	~~1.0354~~ <u>1.0366</u>
Fayette	~~1.0258~~ <u>1.0319</u>
Franklin	~~1.0519~~ <u>1.0608</u>
Fulton	~~1.0361~~ <u>1.0330</u>
Gallia	1.0000
Geauga	~~1.0528~~ <u>1.0501</u>

Greene	~~1.0407~~ <u>1.0444</u>
Guernsey	~~1.0064~~ <u>1.0066</u>
Hamilton	1.0750
Hancock	1.0215
Hardin	~~1.0348~~ <u>1.0356</u>
Harrison	~~1.0081~~ <u>1.0074</u>
Henry	~~1.0338~~ <u>1.0318</u>
Highland	~~1.0129~~ <u>1.0148</u>
Hocking	~~1.0151~~ <u>1.0188</u>
Holmes	~~1.0238~~ <u>1.0178</u>
Huron	~~1.0305~~ <u>1.0293</u>
Jackson	~~1.0118~~ <u>1.0138</u>
Jefferson	~~1.0067~~ <u>1.0073</u>
Knox	~~1.0258~~ <u>1.0279</u>
Lake	~~1.0556~~ <u>1.0524</u>
Lawrence	~~1.0122~~ <u>1.0081</u>
Licking	~~1.0375~~ <u>1.0381</u>
Logan	~~1.0362~~ <u>1.0385</u>
Lorain	~~1.0521~~ <u>1.0515</u>
Lucas	~~1.0406~~ <u>1.0390</u>
Madison	~~1.0437~~ <u>1.0488</u>
Mahoning	~~1.0384~~ <u>1.0346</u>
Marion	~~1.0263~~ <u>1.0306</u>
Medina	~~1.0595~~ <u>1.0536</u>
Meigs	~~1.0018~~ <u>1.0026</u>
Mercer	~~1.0199~~ <u>1.0203</u>
Miami	~~1.0415~~ <u>1.0411</u>
Monroe	~~1.0097~~ <u>1.0050</u>
Montgomery	~~1.0476~~ <u>1.0453</u>
Morgan	~~1.0128~~ <u>1.0089</u>
Morrow	~~1.0276~~ <u>1.0301</u>
Muskingum	~~1.0145~~ <u>1.0127</u>
Noble	~~1.0103~~ <u>1.0073</u>
Ottawa	~~1.0468~~ <u>1.0486</u>
Paulding	~~1.0140~~ <u>1.0115</u>
Perry	~~1.0154~~ <u>1.0160</u>
Pickaway	~~1.0326~~ <u>1.0391</u>
Pike	~~1.0094~~ <u>1.0103</u>
Portage	~~1.0516~~ <u>1.0472</u>
Preble	~~1.0476~~ <u>1.0442</u>

Putnam	~~1.0243~~ <u>1.0216</u>
Richland	~~1.0213~~ <u>1.0199</u>
Ross	~~1.0085~~ <u>1.0151</u>
Sandusky	~~1.0307~~ <u>1.0321</u>
Scioto	~~1.0029~~ <u>1.0012</u>
Seneca	1.0223
Shelby	~~1.0263~~ <u>1.0278</u>
Stark	~~1.0300~~ <u>1.0255</u>
Summit	~~1.0598~~ <u>1.0542</u>
Trumbull	~~1.0381~~ <u>1.0351</u>
Tuscarawas	~~1.0097~~ <u>1.0089</u>
Union	~~1.0446~~ <u>1.0500</u>
Van Wert	1.0133
Vinton	~~1.0070~~ <u>1.0095</u>
Warren	~~1.0659~~ <u>1.0658</u>
Washington	~~1.0075~~ <u>1.0060</u>
Wayne	~~1.0404~~ <u>1.0348</u>
Williams	~~1.0284~~ <u>1.0228</u>
Wood	~~1.0382~~ <u>1.0360</u>
Wyandot	~~1.0188~~ <u>1.0171</u>

(O) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(P) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

(Q) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(R) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(S) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(T) "Medically fragile child" means a child to whom all of the following apply:

- (1) The child requires the services of a doctor of medicine or

osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

(U) A child may be identified as "other health handicapped-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to ~~the effective date of this amendment~~ July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

(V) A child may be identified as "other health handicapped-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to ~~the effective date of this amendment~~ July 1, 2001, but the child's condition does not meet either of the conditions specified in division (U)(1) or (2) of this section.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each school district for the fiscal year in accordance with the following formula, making any adjustment required by division (A)(2) of this section and using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins.

Compute the following for each eligible district:

$$\{(\text{cost-of-doing-business factor} \times \text{the formula amount} \times (\text{the greater of formula ADM or three-year average formula ADM})\} - (.023 \times \text{recognized valuation})$$

If the difference obtained is a negative number, the district's computation shall be zero.

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between

the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means the sum of the following amounts:

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.

(2) "State share percentage" means the percentage calculated for a district as follows:

(a) Calculate the state base cost funding amount for the district for the fiscal year under division (A) of this section. If the district would not receive any state base cost funding for that year under that division, the district's state share percentage is zero.

(b) If the district would receive state base cost funding under that division, divide that amount by an amount equal to the following:

$$\frac{\text{Cost-of-doing-business factor X}}{\text{the formula amount X (the greater of formula ADM or three-year average formula ADM)}}$$

The resultant number is the district's state share percentage.

(3) "Related services" includes:

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for handicapped children whose handicaps are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention,

interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(b) Speech and language services provided to any student with a handicap, including any student whose primary or only handicap is a speech and language handicap;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.023 of the Revised Code;

(e) Any other related service needed by handicapped children in accordance with their individualized education plans.

(4) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage
X the formula amount for the year
for which the aid is calculated

X the district's total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X
the district's total special education weight X
the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner

prescribed, the department shall pay to the district an amount equal to the sum of the following:

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 and twenty-five thousand seven hundred dollars in fiscal ~~year~~ years 2003, 2004, and 2005;

(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 and thirty thousand eight hundred forty dollars in fiscal ~~year~~ years 2003, 2004, and 2005.

~~The threshold catastrophic costs for fiscal year 2003 represent a two and eight tenths per cent inflationary increase over fiscal year 2002.~~

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

~~(5)(4)(a)~~ As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002 ~~and~~, 2003, 2004, and 2005.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall pay each school district an amount calculated under the following formula:

(formula ADM divided by 2000) X

the personnel allowance X the state share percentage

(5) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

(cost-of-doing-business factor X

formula amount X the sum of categories

one through six special education ADM) +

(total special education weight X formula amount)

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of handicapped children, compliance with state rules governing the education of handicapped children and prescribing the continuum of program options for handicapped children, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

(D)(1) As used in this division:

(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.

(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in preschool handicapped units, plus the number of nonpublic school students included in transportation ADM.

(c) "Transported student percentage" equals transportation ADM divided by transportation base.

(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.

(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:

$$51.79027 + (139.62626 \times \text{daily bus miles per student}) + \\ (116.25573 \times \text{transported student percentage})$$

The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles

stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one-year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:

FISCAL YEAR	PERCENTAGE
2000	52.5%
2001	55%
2002	57.5%
2003 and thereafter	The greater of 60% or the district's state share percentage

The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.

(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the following apply:

- (a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;
- (b) Its district student density is lower than the statewide student density, as those terms are defined in that division.

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:

$$\frac{(\text{per rough mile subsidy} \times \text{total rough road miles})}{\text{density multiplier}}$$

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

(c) "Density multiplier" means a figure calculated in accordance with the following formula:

$$1 - [(\text{minimum student density} - \text{district student density}) / (\text{minimum student density} - \text{statewide student density})]$$

(i) "Minimum student density" means the lowest district student density in the state.

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.

(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all school districts.

(6) In addition to funds paid under divisions (D)(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division (J) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

(E)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

state share percentage X
the formula amount X
total vocational education weight

In any fiscal year, a school district receiving funds under division (E)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (E)(1) of this section may be spent.

(2) The department shall compute for each school district state funds for vocational education associated services in accordance with the following formula:

state share percentage X .05 X
the formula amount X the sum of categories one and two
vocational education ADM

In any fiscal year, a school district receiving funds under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (E)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (E)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(F) ~~Beginning in fiscal year 2003, the~~ The actual local share in any fiscal year for the combination of special education and related services additional weighted costs funding calculated under division (C)(1) of this section, transportation funding calculated under divisions (D)(2) and (3) of this section, and vocational education and associated services additional weighted costs funding calculated under divisions (E)(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. ~~Beginning in fiscal year 2003, the~~ The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's

attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section.

(2) The attributed local share of transportation funding equals the difference of the total amount calculated for the district using the formula developed under division (D)(2) of this section minus the actual amount paid to the district after applying the percentage specified in division (D)(3) of this section.

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

$$(1 - \text{state share percentage}) \times [(\text{total vocational education weight} \times \text{the formula amount}) + \text{the payment under division (E)(2) of this section}]$$

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the Revised Code, the amounts required to be paid to a district under this chapter shall be adjusted by the amount of the computations made under divisions (B) to ~~(L)~~(M) of this section.

As used in this section:

(1) "Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.

(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.

(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental teachers contracts.

(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of

students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)~~(5)~~, (6), (7), (8), (9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus ~~one-fourth~~ twenty per cent of the students enrolled concurrently in a joint vocational school district.

(5) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(6) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

(7) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.

(B) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.

(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by ninety-four dollars.

(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.

(F)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (I) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.

(G) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code.

(H) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(I)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another

district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division (I)(1) of this section, add the amount of such payments.

(J) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

(K)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the formula amount times the cost of doing business factor of the school district where the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) An amount equal to the formula amount times the state share percentage times any multiple applicable to the student pursuant to section 3317.013 or 3317.014 of the Revised Code.

(2) Deduct any amount credited pursuant to division (K)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under

division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

Sec. 3317.024. In addition to the moneys paid to eligible school districts pursuant to section 3317.022 of the Revised Code, moneys appropriated for the education programs in divisions (A) to (H), (J) to (L), (O), (P), and (R) of this section shall be distributed to school districts meeting the requirements of section 3317.01 of the Revised Code; in the case of divisions (J) and (P) of this section, to educational service centers as provided in section 3317.11 of the Revised Code; in the case of divisions (E), (M), and (N) of this section, to county MR/DD boards; in the case of division (R) of this section, to joint vocational school districts; in the case of division (K) of this section, to cooperative education school districts; and in the case of division (Q) of this section, to the institutions defined under section 3317.082 of the Revised Code providing elementary or secondary education programs to children other than children receiving special education under section 3323.091 of the Revised Code. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education:

(A) A per pupil amount to each school district that establishes a summer school remediation program that complies with rules of the state board of education.

(B) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education.

(C) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.

(D) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(E) An amount for the emergency purchase of school buses as provided

for in section 3317.07 of the Revised Code;

(F) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.

(G) In fiscal year 2000 only, an amount to each school district for supplemental salary allowances for each licensed employee except those licensees serving as superintendents, assistant superintendents, principals, or assistant principals, whose term of service in any year is extended beyond the term of service of regular classroom teachers, as described in section 3301.0725 of the Revised Code;

(H) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.

(I) Notwithstanding section 3317.01 of the Revised Code, but only until June 30, 1999, to each city, local, and exempted village school district, an amount for conducting driver education courses at high schools for which the state board of education prescribes minimum standards and to joint vocational and cooperative education school districts and educational service centers, an amount for conducting driver education courses to pupils enrolled in a high school for which the state board prescribes minimum standards. No payments shall be made under this division after June 30, 1999.

(J) An amount for the approved cost of transporting developmentally handicapped pupils whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the district or service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

(K) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children and an amount to assist needy school districts in purchasing necessary equipment for food preparation. The amounts shall be determined on the basis of rules adopted by the state board of education.

(L) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year.

(M) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county MR/DD board under section 3323.09 of the Revised Code;

(N) An amount for each county MR/DD board, distributed on the basis of standards adopted by the state board of education, for supportive home services for preschool children;

(O) An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program.

(P) An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy-eight dollars.

(Q) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

(R) A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the

GRADS personnel allowance times the full-time-equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is ~~\$46,260~~ \$47,555 in fiscal years ~~2002~~ 2004 and ~~2003~~ 2005.

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.029. (A) As used in this section:

(1) "DPIA percentage" means:

(a) In fiscal years prior to fiscal year 2004, the quotient obtained by dividing the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified or adjusted under section 3317.10 of the Revised Code, by the district's three-year average formula ADM.

(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code, divided by the district's three-year average formula ADM.

(2) "Family assistance" means assistance received under one of the following:

(a) The Ohio works first program;

(b) The food stamp program;

(c) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;

(d) The children's health insurance program part I established under section 5101.50 of the Revised Code or, prior to fiscal year 2000, an executive order issued under section 107.17 of the Revised Code;

(e) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(f) The disability medical assistance program established under Chapter 5115. of the Revised Code.

(3) "Statewide DPIA percentage" means:

(a) In fiscal years prior to fiscal year 2004, the five-year average of the total number of children ages five to seventeen years residing in the state

and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state.

(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.

(4) "DPIA index" means the quotient obtained by dividing the school district's DPIA percentage by the statewide DPIA percentage.

(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(6) "DPIA student count" means:

(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code;

(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code.

(7) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten.

(8) "Kindergarten through third grade ADM" means the amount calculated as follows:

(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage;

(b) Add the number of students in grades one through three;

(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three.

(9) "Statewide average teacher salary" means forty-two thousand four hundred sixty-nine dollars in fiscal year 2002, and forty-three thousand six hundred fifty-eight dollars in fiscal year 2003, which includes an amount for the value of fringe benefits.

(10) "All-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for pupils in grades one through six.

(11) "All-day kindergarten percentage" means the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten.

(12) "Buildings with the highest concentration of need" means:

(a) In fiscal years prior to fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving assistance under Ohio works first at least as high as the district-wide percentage of students receiving such assistance.

(b) Beginning in fiscal year 2004, the school buildings in a district with percentages of students in grades kindergarten through three receiving family assistance at least as high as the district-wide percentage of students receiving family assistance.

(c) If, in any fiscal year, the information provided by the department of job and family services under section 3317.10 of the Revised Code is insufficient to determine the Ohio works first or family assistance percentage in each building, "buildings with the highest concentration of need" has the meaning given in rules that the department of education shall adopt. The rules shall base the definition of "buildings with the highest concentration of need" on family income of students in grades kindergarten through three in a manner that, to the extent possible with available data, approximates the intent of this division and division (G) of this section to designate buildings where the Ohio works first or family assistance percentage in those grades equals or exceeds the district-wide Ohio works first or family assistance percentage.

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, a school district shall receive the greater of the amount the district received in fiscal year 1998 pursuant to division (B) of section 3317.023 of the Revised Code as it existed at that time or the sum of the computations made under divisions (C) to (E) of this section.

(C) A supplemental payment that may be utilized for measures related to safety and security and for remediation or similar programs, calculated as follows:

(1) If the DPIA index of the school district is greater than or equal to thirty-five-hundredths, but less than one, an amount obtained by multiplying the district's DPIA student count by two hundred thirty dollars;

(2) If the DPIA index of the school district is greater than or equal to one, an amount obtained by multiplying the DPIA index by two hundred thirty dollars and multiplying that product by the district's DPIA student count.

Except as otherwise provided in division (F) of this section, beginning with the school year that starts July 1, 2002, each school district annually shall use at least twenty per cent of the funds calculated for the district under this division for intervention services required by section 3313.608 of the Revised Code.

(D) A payment for all-day kindergarten if the DPIA index of the school district is greater than or equal to one or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:

(1) Determine or calculate a formula number of teachers per one thousand students based on the DPIA index of the school district as follows:

(a) If the DPIA index of the school district is less than six-tenths, the formula number of teachers is 43.478, which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one;

(b) If the DPIA index of the school district is greater than or equal to six-tenths, but less than two and one-half, the formula number of teachers is calculated as follows:

$$43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}$$

Where 43.478 is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one; 1.9 is the interval from a DPIA index of six-tenths to a DPIA index of two and one-half; and 23.188 is the difference in the number of teachers per one thousand students at a student-teacher ratio of fifteen to one and the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one.

(c) If the DPIA index of the school district is greater than or equal to two and one-half, the formula number of teachers is 66.667, which is the number of teachers per one thousand students at a student-teacher ratio of fifteen to one.

(2) Multiply the formula number of teachers determined or calculated in division (E)(1) of this section by the kindergarten through third grade ADM for the district and divide that product by one thousand;

(3) Calculate the number of new teachers as follows:

(a) Multiply the kindergarten through third grade ADM by 43.478, which is the number of teachers per one thousand students at a student-teacher ratio of twenty-three to one, and divide that product by one thousand;

(b) Subtract the quotient obtained in division (E)(3)(a) of this section

from the product in division (E)(2) of this section.

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers salary.

(F) This division applies only to school districts whose DPIA index is one or greater.

(1) Each school district subject to this division shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage.

(2) Up to an amount equal to the district's DPIA index multiplied by its DPIA student count multiplied by two hundred thirty dollars of the money distributed under this section may be utilized for one or both of the following:

(a) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(b) Remediation for students who have failed or are in danger of failing any of the tests administered pursuant to section 3301.0710 of the Revised Code.

Beginning with the school year that starts on July 1, 2002, each school district shall use at least twenty per cent of the funds set aside for the purposes of divisions (F)(2)(a) and (b) of this section to provide intervention services required by section 3313.608 of the Revised Code.

(3) Except as otherwise required by division (G) or permitted under division (K) of this section, all other funds distributed under this section to districts subject to this division shall be utilized for the purpose of the third grade guarantee. The third grade guarantee consists of increasing the amount of instructional attention received per pupil in kindergarten through third grade, either by reducing the ratio of students to instructional personnel or by increasing the amount of instruction and curriculum-related activities by extending the length of the school day or the school year.

School districts may implement a reduction of the ratio of students to instructional personnel through any or all of the following methods:

(a) Reducing the number of students in a classroom taught by a single teacher;

(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code;

(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom.

Districts may extend the school day either by increasing the amount of

time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation.

Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.

(G) Each district subject to division (F) of this section shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one in each kindergarten and first grade class in all buildings with the highest concentration of need. This division does not require that the funds used in buildings with the highest concentration of need be spent solely to reduce the ratio of instructional personnel to students in kindergarten and first grade. A school district may spend the funds in those buildings in any manner permitted by division (F)(3) of this section, but may not spend the money in other buildings unless the fifteen-to-one ratio required by this division is attained.

(H)(1) By the first day of August of each fiscal year, each school district wishing to receive any funds under division (D) of this section shall submit to the department of education an estimate of its all-day kindergarten percentage. Each district shall update its estimate throughout the fiscal year in the form and manner required by the department, and the department shall adjust payments under this section to reflect the updates.

(2) Annually by the end of December, the department of education, utilizing data from the information system established under section 3301.0714 of the Revised Code and after consultation with the legislative office of education oversight, shall determine for each school district subject to division (F) of this section whether in the preceding fiscal year the district's ratio of instructional personnel to students and its number of kindergarten students receiving all-day kindergarten appear reasonable, given the amounts of money the district received for that fiscal year pursuant to divisions (D) and (E) of this section. If the department is unable

to verify from the data available that students are receiving reasonable amounts of instructional attention and all-day kindergarten, given the funds the district has received under this section and that class-size reduction funds are being used in school buildings with the highest concentration of need as required by division (G) of this section, the department shall conduct a more intensive investigation to ensure that funds have been expended as required by this section. The department shall file an annual report of its findings under this division with the chairpersons of the committees in each house of the general assembly dealing with finance and education.

(I) Any school district with a DPIA index less than one and a three-year average formula ADM exceeding seventeen thousand five hundred shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. Such a district shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA index less than one shall expend at least seventy per cent of all funds received under this section, for any of the following purposes:

- (1) The purchase of technology for instructional purposes;
- (2) All-day kindergarten;
- (3) Reduction of class sizes;
- (4) Summer school remediation;
- (5) Dropout prevention programs;
- (6) Guaranteeing that all third graders are ready to progress to more advanced work;
- (7) Summer education and work programs;
- (8) Adolescent pregnancy programs;
- (9) Head start or preschool programs;
- (10) Reading improvement programs described by the department of education;
- (11) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;
- (12) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;
- (13) School breakfasts provided pursuant to section 3313.813 of the

Revised Code.

Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.

(J) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

(K)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division (F)(3) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

Sec. 3317.0217. The department of education shall annually compute and pay state parity aid to school districts, as follows:

(A) Calculate the local wealth per pupil of each school district, which equals the following sum:

(1) Two-thirds times the quotient of (a) the district's recognized valuation divided by (b) its formula ADM; plus

(2) One-third times the quotient of (a) the average of the total federal adjusted gross income of the school district's residents for the three years most recently reported under section 3317.021 of the Revised Code divided by (b) its formula ADM.

(B) Rank all school districts in order of local wealth per pupil, from the district with the lowest local wealth per pupil to the district with the highest

local wealth per pupil.

(C) Compute the per pupil state parity aid funding for each school district in accordance with the following formula:

$$\text{Payment percentage} \times (\text{threshold local wealth per pupil} - \text{the district's local wealth per pupil}) \times 0.0095$$

Where:

(1) "Payment percentage," for purposes of division (C) of this section, equals 20% in fiscal year 2002, 40% in fiscal year 2003, ~~60%~~ 58% in fiscal year 2004, ~~80%~~ 76% in fiscal year 2005, and 100% after fiscal year 2005.

(2) Nine and one-half mills (0.0095) is the general assembly's determination of the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collected in fiscal year 2001 above the revenues required to finance their attributed local shares of the calculated cost of an adequate education. This was determined by (a) adding the district revenues from operating property tax levies and income tax levies, (b) subtracting from that total the sum of (i) twenty-three mills times adjusted recognized valuation plus (ii) the attributed local shares of special education, transportation, and vocational education funding as described in divisions (F)(1) to (3) of section 3317.022 of the Revised Code, and (c) converting the result to an effective operating property tax rate.

(3) The "threshold local wealth per pupil" is the local wealth per pupil of the school district with the four-hundred-ninetieth lowest local wealth per pupil.

If the result of the calculation for a school district under division (C) of this section is less than zero, the district's per pupil parity aid shall be zero.

(D) Compute the per pupil alternative parity aid for each school district that has a combination of an income factor of 1.0 or less, a DPIA index of 1.0 or greater, and a cost-of-doing-business factor of 1.0375 or greater, in accordance with the following formula:

$$\text{Payment percentage} \times \$60,000 \times (1 - \text{income factor}) \times 4/15 \times 0.023$$

Where:

(1) "DPIA index" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Payment percentage," for purposes of division (D) of this section, equals 50% in fiscal year 2002 and 100% after fiscal year 2002.

(E) Pay each district that has a combination of an income factor 1.0 or less, a DPIA index of 1.0 or greater, and a cost-of-doing-business factor of

1.0375 or greater, the greater of the following:

(1) The product of the district's per pupil parity aid calculated under division (C) of this section times its formula ADM;

(2) The product of its per pupil alternative parity aid calculated under division (D) of this section times its formula ADM.

(F) Pay every other district the product of its per pupil parity aid calculated under division (C) of this section times its formula ADM.

~~Every six years, the general assembly shall redetermine, after considering the report of the committee appointed under section 3317.012 of the Revised Code, the average number of effective operating mills that districts in the seventieth to ninetieth percentiles of valuations per pupil collect above the revenues required to finance their attributed local shares of the cost of an adequate education.~~

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code,

including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract.

(3) ~~One-fourth~~ Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts:

(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;

(2) The number of all handicapped preschool children enrolled as of the first day of December in classes in the district that are eligible for approval ~~by the state board of education~~ under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section, are enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code, are enrolled in an adjacent or other school district under section 3313.98 of the Revised Code, are enrolled in a community school established under Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school, or are participating in a program operated by a county MR/DD board or a state institution;

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education

programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center;

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code.

(C)(1) Except as otherwise provided in this section for kindergarten students, the average daily membership in divisions (B)(1) to (12) of this

section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section.

(2) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational

district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students:

- (a) Students enrolled in each grade included in the joint vocational district schools;
- (b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;
- (c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;
- (d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;
- (e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;
- (f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;
- (g) Handicapped children receiving special education services for category six handicaps described in division (F) of section 3317.013 of the

Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any

school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the first full school week in October by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped children currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the ~~state board of education~~ department of education determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys

for the funding of such units, the ~~board~~ department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department ~~of education~~ shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the first full school week of October for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the first full school week in October.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the ~~state board~~ department of education, in the manner prescribed by the superintendent of public instruction.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved ~~by the state board of education~~ pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units

maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the ~~state board~~ department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the ~~board~~ department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department ~~of education~~ shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district

shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3317.032. (A) Each city, local, exempted village, and cooperative education school district, each educational service center, each county MR/DD board, and each institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, in accordance with procedures adopted by the state board of education, maintain a record of district membership of both of the following:

(1) All handicapped preschool children in units approved under division (B) of section 3317.05 of the Revised Code;

(2) All handicapped preschool children who are not in units approved by ~~the state board~~ under division (B) of section 3317.05 of the Revised Code but who are otherwise served by a special education program.

(B) The superintendent of each district, board, or institution subject to division (A) of this section shall certify to the state board of education, in accordance with procedures adopted by that board, membership figures of all handicapped preschool children whose membership is maintained under division (A)(2) of this section. The figures certified under this division shall be used in the determination of the ADM used to compute funds for educational service center governing boards under ~~division (B) of~~ section 3317.11 of the Revised Code.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the ~~state board~~ department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the ~~state board~~ department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department ~~of education~~ that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board ~~of education~~.

(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the ~~state board~~

department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each educational service center, for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county MR/DD board: the number of classes operated by the school district, service center, institution, or county MR/DD board for handicapped preschool children, or fraction thereof, including in the case of a district or service center that is a funding agent, classes taught by a licensed teacher employed by that district or service center under section 3313.841 of the Revised Code, approved annually by the ~~state-board~~ department on the basis of standards and rules adopted by the state board.

(C) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the ~~state-board~~ department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county MR/DD board: the number of preschool handicapped related services units for child study, occupational, physical, or speech and hearing therapy, special education supervisors, and special education coordinators approved annually by the ~~state-board~~ department on the basis of standards and rules adopted by the state board.

(D) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the ~~state-board~~ department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each institution eligible for payment under section 3323.091 of the Revised Code:

(1) The number of classes operated by an institution for handicapped children other than handicapped preschool children, or fraction thereof, approved annually by the ~~state-board~~ department on the basis of standards and rules adopted by the state board;

(2) The number of related services units for children other than handicapped preschool children for child study, occupational, physical, or speech and hearing therapy, special education supervisors, and special education coordinators approved annually by the ~~state-board~~ department on the basis of standards and rules adopted by the state board.

(E) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school

districts, service centers, and institutions approved annually ~~by the state board~~ under this section shall not exceed the number of units included in the ~~state board's~~ estimate of cost for these units and appropriations made for them by the general assembly.

In the case of units described in division (D)(1) of this section operated by institutions eligible for payment under section 3323.091 of the Revised Code, the ~~state board~~ department shall approve only units for persons who are under age twenty-two on the first day of the academic year, but not less than six years of age on the thirtieth day of September of that year, except that such a unit may include one or more children who are under six years of age on the thirtieth day of September if such children have been admitted to the unit pursuant to rules of the state board. In the case of handicapped preschool units described in division (B) of this section ~~operated by county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code~~, the ~~state board~~ department shall approve only preschool units for children who are under age six but not less than age three on the ~~thirtieth first~~ day of ~~September~~ December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the ~~thirtieth first~~ day of ~~September~~ December, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board ~~of education~~. The number of units for county MR/DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved ~~by the state board~~ under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) to (D) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

(F) The department shall approve units or fractions thereof for gifted children on the basis of standards and rules adopted by the state board.

Sec. 3317.064. (A) There is hereby established in the state treasury the auxiliary services ~~mobile unit replacement and repair~~ reimbursement fund. By the thirtieth day of January of each odd-numbered year, the director of job and family services and the superintendent of public instruction shall determine the amount of any excess moneys in the auxiliary services personnel unemployment compensation fund not reasonably necessary for the purposes of section 4141.47 of the Revised Code, and shall certify such amount to the director of budget and management for transfer to the auxiliary services ~~mobile unit replacement and repair~~ reimbursement fund.

If the director of job and family services and the superintendent disagree on such amount, the director of budget and management shall determine the amount to be transferred.

(B) Moneys in the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund shall be used for the relocation or for the replacement and repair of mobile units used to provide the services specified in division (E), (F), (G), or (I) of section 3317.06 of the Revised Code. The state board of education shall adopt guidelines and procedures for replacement, repair, and relocation of mobile units and the procedures under which a school district may apply to receive moneys with which to repair or replace or relocate such units.

(C) School districts may apply to the department for moneys from the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund for payment of incentives for early retirement and severance for school district personnel assigned to provide services authorized by section 3317.06 of the Revised Code at chartered nonpublic schools. The portion of the cost of any early retirement or severance incentive for any employee that is paid using money from the auxiliary services ~~mobile unit replacement and repair reimbursement~~ fund shall not exceed the percentage of such employee's total service credit that the employee spent providing services to chartered nonpublic school students under section 3317.06 of the Revised Code.

Sec. 3317.07. The state board of education shall establish rules for the purpose of distributing subsidies for the purchase of school buses under division (E) of section 3317.024 of the Revised Code.

No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.

The amount paid to a county MR/DD board for buses purchased for transportation of children in special education programs operated by the board shall be one hundred per cent of the board's net cost.

The amount paid to a school district for buses purchased for transportation of handicapped and nonpublic school pupils shall be one hundred per cent of the school district's net cost.

The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than handicapped or nonpublic school pupils.

If any district or MR/DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.

If the department of education determines that a county MR/DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to this section for the purpose of transporting such pupils. The department may reassign a bus to a county MR/DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance to the clerk of the senate and the chief administrative officer of the house of representatives, to the Ohio legislative service commission to be available for examination by any member of either house, to each school district and educational service center, and to the governor.

On or before the first day of September in each year, a copy of the annual statistical report required in ~~sections~~ section 3319.33 ~~and 3319.34~~ of the Revised Code shall be filed by the state board of education with the clerk of the senate and the chief administrative officer of the house of representatives, the Ohio legislative service commission, the governor, and the auditor of state. The report shall contain an analysis for the prior fiscal year on an accrual basis of revenue receipts from all sources and expenditures for all purposes for each school district ~~and each educational service center~~, including each joint vocational and cooperative education school district, in the state. If any board of education ~~or any educational service center governing board~~ fails to make the report required in ~~sections~~ section 3319.33 ~~and 3319.34~~ of the Revised Code, the superintendent of public instruction shall be without authority to distribute funds to that school district or educational service center pursuant to sections 3317.022 to 3317.0212, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code until such time as the required reports are filed with all specified officers, boards, or agencies.

Sec. 3317.10. (A) On or before the first day of March of each year, the department of job and family services shall certify to the state board of education the unduplicated number of children ages five through seventeen residing in each school district and living in a family that, during the preceding October, had family income not exceeding the federal poverty guidelines as defined in section 5101.46 of the Revised Code and participated in one of the following:

- (1) Ohio works first;
- (2) The food stamp program;
- (3) The medical assistance program, including the healthy start program, established under Chapter 5111. of the Revised Code;
- (4) The children's health insurance program part I established under section 5101.50 of the Revised Code;
- (5) The disability financial assistance program established under Chapter 5115. of the Revised Code;
- (6) The disability medical assistance program established under Chapter 5115. of the Revised Code.

The department of job and family services shall certify this information according to the school district of residence for each child. Except as provided under division (B) of this section, the number of children so certified in any year shall be used by the department of education in calculating the distribution of moneys for the ensuing fiscal year as provided in section 3317.029 of the Revised Code.

(B) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number of children certified under division (A) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of such children who reside in the district. Within sixty days of receipt of a request for information from the department of education, the department of job and family services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division (A) of this section, in the calculation of the distribution of moneys provided in section 3317.029 of the Revised Code.

Sec. 3317.11. (A) As used in this section:

(1) "Client school district" means a city or exempted village school district that has entered into an agreement under section 3313.843 of the Revised Code to receive any services from an educational service center.

(2) "Service center ADM" means the sum of the total student counts of all local school districts within an educational service center's territory and all of the service center's client school districts.

(3) "Total student count" has the same meaning as in section 3301.011 of the Revised Code.

(B)(1) The governing board of each educational service center shall provide supervisory services to each local school district within the service center's territory. Each city or exempted village school district that enters into an agreement under section 3313.843 of the Revised Code for a governing board to provide any services also is considered to be provided supervisory services by the governing board. Except as provided in division (B)(2) of this section, the supervisory services shall not exceed one supervisory teacher for the first fifty classroom teachers required to be employed in the districts, as calculated under section 3317.023 of the Revised Code, and one for each additional one hundred required classroom teachers, as so calculated.

The supervisory services shall be financed annually through supervisory units. Except as provided in division (B)(2) of this section, the number of supervisory units assigned to each district shall not exceed one unit for the first fifty classroom teachers required to be employed in the district, as calculated under section 3317.023 of the Revised Code, and one for each additional one hundred required classroom teachers, as so calculated. The cost of each supervisory unit shall be the sum of:

(a) The minimum salary prescribed by section 3317.13 of the Revised Code for the licensed supervisory employee of the governing board;

(b) An amount equal to fifteen per cent of the salary prescribed by section 3317.13 of the Revised Code;

(c) An allowance for necessary travel expenses, limited to the lesser of two hundred twenty-three dollars and sixteen cents per month or two thousand six hundred seventy-eight dollars per year.

(2) If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local and client school districts receiving services from the educational service center agree to receive additional supervisory services and to pay the cost of a corresponding number of supervisory units in excess of the services and units specified in division (B)(1) of this section, the service center shall provide the additional services as agreed to by the majority of districts to, and the department of education shall apportion the cost of the corresponding number of additional supervisory units pursuant to division (B)(3) of this section among, all of the service center's local and client school districts.

(3) The department shall apportion the total cost for all supervisory units among the service center's local and client school districts based on each district's total student count. The department shall deduct each district's apportioned share pursuant to division (E) of section 3317.023 of the Revised Code and pay the apportioned share to the service center.

(C) The department annually shall deduct from each local and client school district of each educational service center, pursuant to division (E) of section 3317.023 of the Revised Code, and pay to the service center an amount equal to six dollars and fifty cents times the school district's total student count. The board of education, or the superintendent acting on behalf of the board, of any local or client school district may agree to pay an amount in excess of six dollars and fifty cents per student in total student count. If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local school districts within a service center's territory approve an amount in excess of six dollars and fifty cents per student in total student count, the department shall deduct the approved excess per student amount from all of the local school districts within the service center's territory and pay the excess amount to the service center.

(D) The department shall pay each educational service center the amounts due to it from school districts pursuant to contracts, compacts, or agreements under which the service center furnishes services to the districts or their students. In order to receive payment under this division, an educational service center shall furnish either a copy of the contract, compact, or agreement clearly indicating the amounts of the payments, or a written statement that clearly indicates the payments owed and is signed by the superintendent or treasurer of the responsible school district. The amounts paid to service centers under this division shall be deducted from payments to school districts pursuant to division (K)(3) of section 3317.023 of the Revised Code.

(E) Each school district's deduction under this section and divisions (E) and (K)(3) of section 3317.023 of the Revised Code shall be made from the total payment computed for the district under this chapter, after making any other adjustments in that payment required by law.

(F)(1) Except as provided in division (F)(2) of this section, the department annually shall pay the governing board of each educational service center state funds equal to thirty-seven dollars times its service center ADM.

(2) The department annually shall pay state funds equal to forty dollars and fifty-two cents times the service center ADM to each educational service center comprising territory that was included in the territory of at

least three former service centers or county school districts, which former centers or districts engaged in one or more mergers under section 3311.053 of the Revised Code to form the present center.

(G) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or career-technical education from the educational service center, unless these educational services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division (K)(3) of section 3317.023 of the Revised Code.

(H) An educational service center:

(1) May provide special education and career-technical education to students in its local or client school districts;

(2) Is eligible for transportation funding under division (J) of section 3317.024 of the Revised Code and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code;

(3) May apply for and receive gifted education units and provide gifted education services to students in its local or client school districts;

(4) May conduct driver education for high school students in accordance with Chapter 4508. of the Revised Code.

Sec. 3317.16. (A) As used in this section:

(1) "State share percentage" means the percentage calculated for a joint vocational school district as follows:

(a) Calculate the state base cost funding amount for the district under division (B) of this section. If the district would not receive any base cost funding for that year under that division, the district's state share percentage is zero.

(b) If the district would receive base cost funding under that division, divide that base cost amount by an amount equal to the following:

cost-of-doing-business factor X
the formula amount X
~~the greater of formula ADM or~~
~~three-year average~~ formula ADM

The resultant number is the district's state share percentage.

(2) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(1) of section 3317.022 of the Revised Code.

(3) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division

(B)(4) of section 3317.022 of the Revised Code.

(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year.

(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(6) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

$$\begin{aligned} & (\text{cost-of-doing-business factor} \times \\ & \text{formula amount} \times \text{the greater of formula} \\ & \text{ADM or three-year average formula ADM}) - \\ & (.0005 \times \text{total recognized valuation}) \end{aligned}$$

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage} \times \text{formula amount} \times \\ & \text{total vocational education weight} \end{aligned}$$

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C)(1) of this section may be spent.

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage} \times .05 \times \\ & \text{the formula amount} \times \text{the sum of} \\ & \text{categories one and two vocational} \\ & \text{education ADM} \end{aligned}$$

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division (L) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\frac{\text{state share percentage} \times \text{formula amount}}{\text{total special education weight}}$$

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002 ~~and, 2003, 2004, and 2005.~~

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

$$(\text{formula ADM divided by 2000}) \times \frac{\text{the personnel allowance}}{\text{state share percentage}}$$

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

$$\frac{(\text{cost-of-doing-business factor} \times \text{formula amount})}{\text{X the sum of categories one through six special education ADM}} + \frac{(\text{total special education weight} \times \text{formula amount})}{\text{formula amount}}$$

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of handicapped children, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative

and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)~~(2)~~(1) If a joint vocational school district's costs for a fiscal year for a student in its categories ~~one~~ two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)~~(1)~~ A joint vocational school district's local share of special education and related services additional weighted costs equals:

$$\begin{aligned} & (1 - \text{state share percentage}) \times \\ & \text{Total special education weight} \times \\ & \text{the formula amount} \end{aligned}$$

(2) For each handicapped student receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The product of the formula amount times the cost-of-doing-business factor;

(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district shall report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) The department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year 1999 under the version of this section in effect that year, plus the amount that district received under the version of section 3317.162 of the Revised Code in effect that year and minus the amounts received that year for driver education and adult education, the

department shall pay the district an additional amount equal to the difference between those two amounts.

Sec. 3318.01. As used in sections 3318.01 to 3318.20 of the Revised Code:

(A) "Ohio school facilities commission" means the commission created pursuant to section 3318.30 of the Revised Code.

(B) "Classroom facilities" means rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete educational program, and may include space within which a child day-care facility or a community resource center is housed. "Classroom facilities" includes any space necessary for the operation of a vocational education program for secondary students in any school district that operates such a program.

(C) "Project" means a project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities, to be used for housing the applicable school district and its functions.

(D) "School district" means a local, exempted village, or city school district as such districts are defined in Chapter 3311. of the Revised Code, acting as an agency of state government, performing essential governmental functions of state government pursuant to sections 3318.01 and 3318.20 of the Revised Code.

For purposes of assistance provided under sections 3318.40 to 3318.45 of the Revised Code, the term "school district" as used in this section and in divisions (A), (C), and (D) of section 3318.03 and in sections 3318.031, ~~3318.033~~, 3318.042, 3318.07, 3318.08, 3318.083, 3318.084, 3318.085, 3318.086, 3318.10, 3318.11, 3318.12, 3318.13, 3318.14, 3318.15, 3318.16, 3318.19, and 3318.20 of the Revised Code means a joint vocational school district established pursuant to section 3311.18 of the Revised Code.

(E) "School district board" means the board of education of a school district.

(F) "Net bonded indebtedness" means the difference between the sum of the par value of all outstanding and unpaid bonds and notes which a school district board is obligated to pay, any amounts the school district is obligated to pay under lease-purchase agreements entered into under section 3313.375 of the Revised Code, and the par value of bonds authorized by the electors but not yet issued, the proceeds of which can lawfully be used for the project, and the amount held in the sinking fund and other indebtedness retirement funds for their redemption. Notes issued for school buses in accordance with section 3327.08 of the Revised Code, notes issued in

anticipation of the collection of current revenues, and bonds issued to pay final judgments shall not be considered in calculating the net bonded indebtedness.

"Net bonded indebtedness" does not include indebtedness arising from the acquisition of land to provide a site for classroom facilities constructed, acquired, or added to pursuant to sections 3318.01 to 3318.20 of the Revised Code.

(G) "Board of elections" means the board of elections of the county containing the most populous portion of the school district.

(H) "County auditor" means the auditor of the county in which the greatest value of taxable property of such school district is located.

(I) "Tax duplicates" means the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(J) "Required level of indebtedness" means:

(1) In the case of districts in the first percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code.

(2) In the case of districts ranked in a subsequent percentile, five per cent of the district's valuation for the year preceding the year in which the controlling board approved the project under section 3318.04 of the Revised Code, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project minus one)].

(K) "Required percentage of the basic project costs" means one per cent of the basic project costs times the percentile in which the district ranks for the fiscal year preceding the fiscal year in which the controlling board approved the district's project.

(L) "Basic project cost" means a cost amount determined in accordance with rules adopted under section 111.15 of the Revised Code by the Ohio school facilities commission. The basic project cost calculation shall take into consideration the square footage and cost per square foot necessary for the grade levels to be housed in the classroom facilities, the variation across the state in construction and related costs, the cost of the installation of site utilities and site preparation, the cost of demolition of all or part of any existing classroom facilities that are abandoned under the project, the cost of insuring the project until it is completed, any contingency reserve amount prescribed by the commission under section 3318.086 of the Revised Code, and the professional planning, administration, and design fees that a district may have to pay to undertake a classroom facilities project.

For a joint vocational school district that receives assistance under

sections 3318.40 to 3318.45 of the Revised Code, the basic project cost calculation for a project under those sections shall also take into account the types of laboratory spaces and program square footages needed for the vocational education programs for high school students offered by the school district.

~~"Basic project cost" also includes the value of classroom facilities authorized in a pre-existing bond issue as described in section 3318.033 of the Revised Code.~~

(M)(1) Except for a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under section 3318.032 of the Revised Code.

(2) For a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, a "school district's portion of the basic project cost" means the amount determined under division (C) of section 3318.42 of the Revised Code.

(N) "Child day-care facility" means space within a classroom facility in which the needs of infants, toddlers, preschool children, and school children are provided for by persons other than the parent or guardian of such children for any part of the day, including persons not employed by the school district operating such classroom facility.

(O) "Community resource center" means space within a classroom facility in which comprehensive services that support the needs of families and children are provided by community-based social service providers.

(P) "Valuation" means the total value of all property in the district as listed and assessed for taxation on the tax duplicates.

(Q) "Percentile" means the percentile in which the district is ranked pursuant to division (D) of section 3318.011 of the Revised Code.

(R) "Installation of site utilities" means the installation of a site domestic water system, site fire protection system, site gas distribution system, site sanitary system, site storm drainage system, and site telephone and data system.

(S) "Site preparation" means the earthwork necessary for preparation of the building foundation system, the paved pedestrian and vehicular circulation system, playgrounds on the project site, and lawn and planting on the project site.

Sec. 3318.024. In the first year of a capital biennium, any funds appropriated to the Ohio school facilities commission for classroom facilities projects under this chapter in the previous capital biennium that were not spent or encumbered, or for which an encumbrance has been

canceled under section 3318.05 of the Revised Code, shall be used by the commission only for projects under sections 3318.01 to 3318.20 of the Revised Code, subject to appropriation by the general assembly.

In the second year of a capital biennium, any funds appropriated to the Ohio school facilities commission for classroom facilities projects under this chapter that were not spent or encumbered in the first year of the biennium and which are in excess of an amount equal to half of the appropriations for the capital biennium, or for which an encumbrance has been canceled under section 3318.05 of the Revised Code, shall be used by the commission only for projects under sections 3318.01 to 3318.20 of the Revised Code, subject to appropriation by the general assembly.

Sec. 3318.03. (A) Before conducting an on-site evaluation of a school district under section 3318.02 of the Revised Code, at the request of the district board of education, the Ohio school facilities commission shall examine any classroom facilities needs assessment that has been conducted by the district and any master plan developed for meeting the facility needs of the district.

(B) Upon conducting the on-site evaluation under section 3318.02 of the Revised Code, the Ohio school facilities commission shall make a determination of all of the following:

- (1) The needs of the school district for additional classroom facilities;
- (2) The number of classroom facilities to be included in a project; ~~including classroom facilities authorized by a bond issue described in section 3318.033 of the Revised Code,~~ and the basic project cost of constructing, acquiring, reconstructing, or making additions to each such facility;
- (3) The amount of such cost that the school district can supply from available funds, by the issuance of bonds previously authorized by the electors of the school district the proceeds of which can lawfully be used for the project, ~~including bonds authorized by the district's electors as described in section 3318.033 of the Revised Code,~~ and by the issuance of bonds under section 3318.05 of the Revised Code;
- (4) The remaining amount of such cost that shall be supplied by the state;
- (5) The amount of the state's portion to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal bienniums from funds appropriated for purposes of sections 3318.01 to 3318.20 of the Revised Code.

(C) The commission shall make a determination in favor of constructing, acquiring, reconstructing, or making additions to a classroom

facility only upon evidence that the proposed project conforms to sound educational practice, that it is in keeping with the orderly process of school district reorganization and consolidation, and that the actual or projected enrollment in each classroom facility proposed to be included in the project is at least three hundred fifty pupils. Exceptions shall be authorized only in those districts where topography, sparsity of population, and other factors make larger schools impracticable.

If the school district board determines that an existing facility has historical value or for other good cause determines that an existing facility should be renovated in lieu of acquiring a comparable facility by new construction, the commission may approve the expenditure of project funds for the renovation of that facility up to but not exceeding one hundred per cent of the estimated cost of acquiring a comparable facility by new construction, as long as the commission determines that the facility when renovated can be operationally efficient, will be adequate for the future needs of the district, and will comply with the other provisions of this division.

(D) Sections 125.81 and 153.04 of the Revised Code shall not apply to classroom facilities constructed under either sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.042. (A) The board of education of any school district that is receiving assistance under sections 3318.01 to 3318.20 of the Revised Code after May 20, 1997, or under sections 3318.40 to 3318.45 of the Revised Code, and whose project is still under construction, may request that the Ohio school facilities commission examine whether the circumstances prescribed in either division (B)(1) or (2) of this section exist in the school district. If the commission so finds, the commission shall review the school district's original assessment and approved project and consider providing additional assistance to the school district to correct the prescribed conditions found to exist in the district. Additional assistance under this section shall be limited to additions to one or more buildings, remodeling of one or more buildings, or changes to the infrastructure of one or more buildings.

(B) Consideration of additional assistance to a school district under this section is warranted in either of the following circumstances:

(1) Additional work is needed to correct an oversight or deficiency not identified or included in the district's initial assessment.

(2) Other conditions exist that, in the opinion of the commission, warrant additions or remodeling of the project facilities or changes to infrastructure associated with the district's project that were not identified in

the initial assessment and plan.

(C) If the commission decides in favor of providing additional assistance to any school district under this section, the school district shall be responsible for paying for its portion of the cost of the additions, remodeling, or infrastructure changes pursuant to section 3318.083 of the Revised Code. If, after making a financial evaluation of the school district, the commission determines that the school district is unable without undue hardship, according to the guidelines adopted by the commission, to fund the school district portion of the increase, then the state and the school district shall enter into an agreement whereby the state shall pay the portion of the cost increase attributable to the school district which is determined to be in excess of any local resources available to the district and the district shall thereafter reimburse the state. The commission shall establish the district's schedule for reimbursing the state, which shall not extend beyond ~~five~~ ten years. The commission may lengthen the reimbursement schedule of a school district that has entered into an agreement under this section prior to the effective date of this amendment as long as the total term of that schedule does not extend beyond ten years. Debt incurred under this section shall not be included in the calculation of the net indebtedness of the school district under section 133.06 of the Revised Code.

Sec. 3318.05. The conditional approval of the Ohio school facilities commission for a project shall lapse and the amount reserved and encumbered for such project shall be released unless the school district board accepts such conditional approval within one hundred twenty days following the date of certification of the conditional approval to the school district board and the electors of the school district vote favorably on both of the propositions described in divisions (A) and (B) of this section within one year of the date of such certification, except that a school district described in division (C) of this section does not need to submit the proposition described in division (B) of this section. The propositions described in divisions (A) and (B) of this section shall be combined in a single proposal. If the district board or the district's electors fail to meet such requirements and the amount reserved and encumbered for the district's project is released, the district shall be given first priority for project funding as such funds become available.

(A) On the question of issuing bonds of the school district board, for the school district's portion of the basic project cost, in an amount equal to the school district's portion of the basic project cost ~~less any deduction made under section 3318.033 of the Revised Code and~~ less the amount of the proceeds of any securities authorized or to be authorized under division (J)

of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost; and

(B) On the question of levying a tax the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project. Such tax shall be at the rate of not less than one-half mill for each dollar of valuation for a period of twenty-three years, subject to any extension approved under section 3318.061 of the Revised Code.

(C) If a school district has in place a tax levied under section 5705.21 of the Revised Code for general ongoing permanent improvements ~~of at least two mills for each dollar of valuation~~ and the proceeds of such tax can be used for maintenance, the school district need not levy the additional tax required under division (B) of this section, provided the school district board includes in the agreement entered into under section 3318.08 of the Revised Code provisions earmarking an amount from the proceeds of that permanent improvement tax for maintenance of classroom facilities equivalent to the amount of the additional tax and for the equivalent number of years otherwise required under this section.

(D) Proceeds of the tax to be used for maintenance of the classroom facilities under either division (B) or (C) of this section shall be deposited into a separate fund established by the school district for such purpose.

Sec. 3318.052. At any time after the electors of a school district have approved either or both a property tax levied under section 5705.21 or 5705.218 of the Revised Code for the purpose of general ongoing permanent improvements or a school district income tax levied under Chapter 5748. of the Revised Code, the proceeds of which, pursuant to the ballot measures approved by the electors, are not so restricted that they cannot be used to pay the costs of a project or maintaining classroom facilities, the school district board may:

(A) Within one year following the date of the certification of the conditional approval of the school district's classroom facilities project by the Ohio school facilities commission, enter into a written agreement with the commission, which may be part of an agreement entered into under section 3318.08 of the Revised Code, and in which the school district board covenants and agrees to do one or both of the following:

(1) Apply a specified amount of available proceeds of that property tax levy, of that school district income tax, or of securities issued under this section, or of proceeds from any two or more of those sources, to pay all or part of the district's portion of the basic project cost of its classroom facilities project;

(2) Apply available proceeds of either or both a property tax levied

under section 5705.21 or 5705.218 of the Revised Code in effect for a continuing period of time, or of a school district income tax levied under Chapter 5748. of the Revised Code in effect for a continuing period of time to the payment of costs of maintaining the classroom facilities.

(B) Receive, as a credit against the amount of bonds required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district and issued by the district board for the district's portion of the basic project cost of its classroom facilities project in order for the district to receive state assistance for the project, an amount equal to the specified amount that the district board covenants and agrees with the commission to apply as set forth in division (A)(1) of this section;

(C) Receive, as a credit against the amount of the tax levy required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district to pay the costs of maintaining the classroom facilities in order to receive state assistance for the classroom facilities project, an amount equivalent to the specified amount of proceeds the school district board covenants and agrees with the commission to apply as referred to in division (A)(2) of this section;

(D) Apply proceeds of either or both a school district income tax levied under Chapter 5748. of the Revised Code that may lawfully be used to pay the costs of a classroom facilities project or of a tax levied under section 5705.21 or 5705.218 of the Revised Code to the payment of debt charges on and financing costs related to securities issued under this section;

(E) Issue securities to provide moneys to pay all or part of the district's portion of the basic project cost of its classroom facilities project in accordance with an agreement entered into under division (A) of this section. Securities issued under this section shall be Chapter 133. securities and may be issued as general obligation securities or issued in anticipation of a school district income tax or as property tax anticipation notes under section 133.24 of the Revised Code. The district board's resolution authorizing the issuance and sale of general obligation securities under this section shall conform to the applicable requirements of section 133.22 or 133.23 of the Revised Code. Securities issued under this section shall have principal payments during each year after the year of issuance over a period of not more than twenty-three years and, if so determined by the district board, during the year of issuance. Securities issued under this section shall not be included in the calculation of net indebtedness of the district under section 133.06 of the Revised Code, if the resolution of the district board authorizing their issuance and sale includes covenants to appropriate annually from lawfully available proceeds of a property tax levied under

section 5705.21 or 5705.218 of the Revised Code or of a school district income tax levied under Chapter 5748. of the Revised Code and to continue to levy and collect the tax in amounts necessary to pay the debt charges on and financing costs related to the securities as they become due. No property tax levied under section 5705.21 or 5705.218 of the Revised Code and no school district income tax levied under Chapter 5748. of the Revised Code that is pledged, or that the school district board has covenanted to levy, collect, and appropriate annually, to pay the debt charges on and financing costs related to securities issued under this section shall be repealed while those securities are outstanding. If such a tax is reduced by the electors of the district or by the district board while those securities are outstanding, the school district board shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the securities in that year, except that in the case of a school district income tax that amount shall be rounded up to the nearest one-fourth of one per cent.

No state moneys shall be released for a project to which this section applies until the proceeds of the tax securities issued under this section that are dedicated for the payment of the district portion of the basic project cost of its classroom facilities project are first deposited into the district's project construction fund.

Sec. 3318.06. (A) After receipt of the conditional approval of the Ohio school facilities commission, the school district board by a majority of all of its members shall, if it desires to proceed with the project, declare all of the following by resolution:

(1) That by issuing bonds in an amount equal to the school district's portion of the basic project cost, ~~including bonds previously authorized by the district's electors as described in section 3318.033 of the Revised Code,~~ the district is unable to provide adequate classroom facilities without assistance from the state;

(2) Unless the school district board has resolved to apply the proceeds of a property tax or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized under section 3318.052 of the Revised Code, that to qualify for such state assistance it is necessary to do either of the following:

(a) Levy a tax outside the ten-mill limitation the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project;

(b) Earmark for maintenance of classroom facilities from the proceeds

of an existing permanent improvement tax levied under section 5705.21 of the Revised Code, if such tax ~~is of at least two mills for each dollar of valuation and~~ can be used for maintenance, an amount equivalent to the amount of the additional tax otherwise required under this section and sections 3318.05 and 3318.08 of the Revised Code.

(3) That the question of any tax levy specified in a resolution described in division (A)(2)(a) of this section, if required, shall be submitted to the electors of the school district at the next general or primary election, if there be a general or primary election not less than seventy-five and not more than ninety-five days after the day of the adoption of such resolution or, if not, at a special election to be held at a time specified in the resolution which shall be not less than seventy-five days after the day of the adoption of the resolution and which shall be in accordance with the requirements of section 3501.01 of the Revised Code.

Such resolution shall also state that the question of issuing bonds of the board shall be combined in a single proposal with the question of such tax levy. More than one election under this section may be held in any one calendar year. Such resolution shall specify both of the following:

(a) That the rate which it is necessary to levy shall be at the rate of not less than one-half mill for each one dollar of valuation, and that such tax shall be levied for a period of twenty-three years;

(b) That the proceeds of the tax shall be used to pay the cost of maintaining the classroom facilities included in the project.

(B) A copy of a resolution adopted under division (A) of this section shall after its passage and not less than seventy-five days prior to the date set therein for the election be certified to the county board of elections.

The resolution of the school district board, in addition to meeting other applicable requirements of section 133.18 of the Revised Code, shall state that the amount of bonds to be issued will be an amount equal to the school district's portion of the basic project cost, and state the maximum maturity of the bonds which may be any number of years not exceeding the term calculated under section 133.20 of the Revised Code as determined by the board. In estimating the amount of bonds to be issued, the board shall take into consideration the amount of moneys then in the bond retirement fund and the amount of moneys to be collected for and disbursed from the bond retirement fund during the remainder of the year in which the resolution of necessity is adopted.

If the bonds are to be issued in more than one series, the resolution may state, in addition to the information required to be stated under division (B)(3) of section 133.18 of the Revised Code, the number of series, which

shall not exceed five, the principal amount of each series, and the approximate date each series will be issued, and may provide that no series, or any portion thereof, may be issued before such date. Upon such a resolution being certified to the county auditor as required by division (C) of section 133.18 of the Revised Code, the county auditor, in calculating, advising, and confirming the estimated average annual property tax levy under that division, shall also calculate, advise, and confirm by certification the estimated average property tax levy for each series of bonds to be issued.

Notice of the election shall include the fact that the tax levy shall be at the rate of not less than one-half mill for each one dollar of valuation for a period of twenty-three years, and that the proceeds of the tax shall be used to pay the cost of maintaining the classroom facilities included in the project.

If the bonds are to be issued in more than one series, the board of education, when filing copies of the resolution with the board of elections as required by division (D) of section 133.18 of the Revised Code, may direct the board of elections to include in the notice of election the principal amount and approximate date of each series, the maximum number of years over which the principal of each series may be paid, the estimated additional average property tax levy for each series, and the first calendar year in which the tax is expected to be due for each series, in addition to the information required to be stated in the notice under division (E)(3)(a) to (e) of section 133.18 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the form of the ballot to be used at such election shall be:

"A majority affirmative vote is necessary for passage.

Shall bonds be issued by the (here insert name of school district) school district to pay the local share of school construction under the State of Ohio Classroom Facilities Assistance Program in the principal amount of (here insert principal amount of the bond issue), to be repaid annually over a maximum period of (here insert the maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (here insert the number of mills estimated) mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of tax valuation to pay the annual debt charges on the bonds and to pay debt charges on any notes issued in anticipation of the bonds?"

and, unless the additional levy

of taxes is not required pursuant
to division (C) of section
3318.05 of the Revised Code,

"Shall an additional levy of taxes be made for a period of twenty-three years to benefit the (here insert name of school district) school district, the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project at the rate of (here insert the number of mills, which shall not be less than one-half mill) mills for each one dollar of valuation?

	FOR THE BOND ISSUE AND TAX LEVY	
	AGAINST THE BOND ISSUE AND TAX LEVY	"

(2) If authority is sought to issue bonds in more than one series and the board of education so elects, the form of the ballot shall be as prescribed in section 3318.062 of the Revised Code. If the board of education elects the form of the ballot prescribed in that section, it shall so state in the resolution adopted under this section.

(D) If it is necessary for the school district to acquire a site for the classroom facilities to be acquired pursuant to sections 3318.01 to 3318.20 of the Revised Code, the district board may propose either to issue bonds of the board or to levy a tax to pay for the acquisition of such site, and may combine the question of doing so with the questions specified in division (B) of this section. Bonds issued under this division for the purpose of acquiring a site are a general obligation of the school district and are Chapter 133. securities.

The form of that portion of the ballot to include the question of either issuing bonds or levying a tax for site acquisition purposes shall be one of the following:

(1) "Shall bonds be issued by the (here insert name of the school district) school district to pay costs of acquiring a site for classroom facilities under the State of Ohio Classroom Facilities Assistance Program in the principal amount of (here insert principal amount of the bond issue), to be repaid annually over a maximum period of (here insert maximum number of years over which the principal of the bonds may be paid) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue (here insert number of mills)

mills for each one dollar of tax valuation, which amount to (here insert rate expressed in cents or dollars and cents, such as "thirty-six cents" or "\$0.36") for each one hundred dollars of valuation to pay the annual debt charges on the bonds and to pay debt charges on any notes issued in anticipation of the bonds?"

(2) "Shall an additional levy of taxes outside the ten-mill limitation be made for the benefit of the (here insert name of the school district) school district for the purpose of acquiring a site for classroom facilities in the sum of (here insert annual amount the levy is to produce) estimated by the county auditor to average (here insert number of mills) mills for each one hundred dollars of valuation, for a period of (here insert number of years the millage is to be imposed) years?"

Where it is necessary to combine the question of issuing bonds of the school district and levying a tax as described in division (B) of this section with the question of issuing bonds of the school district for acquisition of a site, the question specified in that division to be voted on shall be "For the Bond Issues and the Tax Levy" and "Against the Bond Issues and the Tax Levy."

Where it is necessary to combine the question of issuing bonds of the school district and levying a tax as described in division (B) of this section with the question of levying a tax for the acquisition of a site, the question specified in that division to be voted on shall be "For the Bond Issue and the Tax Levies" and "Against the Bond Issue and the Tax Levies."

Where the school district board chooses to combine the question in division (B) of this section with any of the additional questions described in divisions (A) to (D) of section 3318.056 of the Revised Code, the question specified in division (B) of this section to be voted on shall be "For the Bond Issues and the Tax Levies" and "Against the Bond Issues and the Tax Levies."

If a majority of those voting upon a proposition hereunder which includes the question of issuing bonds vote in favor thereof, and if the agreement provided for by section 3318.08 of the Revised Code has been entered into, the school district board may proceed under Chapter 133. of the Revised Code, with the issuance of bonds or bond anticipation notes in accordance with the terms of the agreement.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the

proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including ~~any bonds previously authorized by the district's electors as described in section 3318.033 of the Revised Code and~~ any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes.

Otherwise, the proceeds of such bonds and of any bond anticipation notes, except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general ongoing permanent or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or

part of the service charges on bonds issued to pay the school district portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, either of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

(b) If the school district electors have approved a continuing tax ~~of at least two mills for each dollar of valuation~~ for general ongoing permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either

section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R)(1) For all school districts except a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that all state funds reserved and encumbered to pay the state share of the cost of the project pursuant to section 3318.03 of the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any funds provided by the school district to pay for its share of the project cost, unless the school district certifies to the commission that expenditure by the school district is necessary to maintain the tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, in which cases, the school

district may commit to spend, or spend, a portion of the funds it provides;

(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the school district board shall comply with section 3313.41 of the Revised Code throughout the project and shall notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project.

Sec. 3318.30. (A) There is hereby created the Ohio school facilities commission. The commission shall administer the provision of financial assistance to school districts for the acquisition or construction of classroom facilities in accordance with sections 3318.01 to 3318.33 of the Revised Code.

The commission is a body corporate and politic, an agency of state government and an instrumentality of the state, performing essential

governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by sections 3318.01 to 3318.33 of the Revised Code are essential public functions and public purposes of the state. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by sections 3318.01 to 3318.33 of the Revised Code, but it does not have and shall not exercise the power of eminent domain. In its discretion and as it determines appropriate, the commission may delegate to any of its members, executive director, or other employees any of the commission's powers and duties to carry out its functions.

(B) The commission shall consist of seven members, three of whom are voting members. The voting members of the commission shall be the director of the office of budget and management, the director of administrative services, and the superintendent of public instruction, or their designees. Of the nonvoting members, two shall be members of the senate appointed by the president of the senate, and two shall be members of the house of representatives appointed by the speaker of the house. Each of the appointees of the president, and each of the appointees of the speaker, shall be members of different political parties.

Nonvoting members shall serve as members of the commission during the legislative biennium for which they are appointed, except that any such member who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the commission. Each nonvoting member shall be appointed within thirty-one days of the end of the term of that member's predecessor. Such members may be reappointed. Vacancies of nonvoting members shall be filled in the manner provided for original appointments.

Members of the commission shall serve without compensation.

After the initial nonvoting members of the commission have been appointed, the commission shall meet and organize by electing voting members as the chairperson and vice-chairperson of the commission, who shall hold their offices until the next organizational meeting of the commission. Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson and vice-chairperson, who shall serve until the next annual organizational meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings. Including the organizational meeting, the commission shall meet at least once each calendar quarter.

Two voting members of the commission constitute a quorum, and the affirmative vote of two members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state and shall be held in compliance with section 121.22 of the Revised Code.

(C) The commission shall file an annual report of its activities and finances with the governor, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(D) The commission shall be exempt from the requirements of sections 101.82 to 101.87 of the Revised Code.

Sec. 3318.31. (A) The Ohio school facilities commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, Chapter 3318. of the Revised Code, including any of the following:

(1) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the administration of programs authorized under Chapter 3318. of the Revised Code.

(2) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(3) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under Chapter 3318. of the Revised Code.

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall supervise the operations of the commission and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission

shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

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

Sec. 3318.37. (A)(1) As used in this section:

~~(1)(a)~~ "Large land area school district" means a school district with a territory of greater than three hundred square miles in any percentile as determined under section 3318.011 of the Revised Code.

(b) "Low wealth school district" means a school district in the first through fiftieth percentiles as determined under section 3318.011 of the Revised Code.

~~(2)(c)~~ A "school district with an exceptional need for immediate classroom facilities assistance" means a low wealth or large land area school district with an exceptional need for new facilities in order to protect the health and safety of all or a portion of its students. School

(2) School districts reasonably expected to be eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code within three fiscal years after the year of the application for assistance under this section is being considered by the Ohio school facilities commission, and school districts that participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code, except for such districts described in division (A)(3) of this section, shall not be eligible for assistance under this section.

(3) School districts that participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code may receive assistance under the program established under this section only if the following conditions are satisfied:

(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.

(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for

classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction experts, the commission shall adopt guidelines for identifying school districts with an exceptional need for immediate classroom facilities assistance.

(b) The guidelines shall include application forms and instructions for school districts ~~that believe they have an exceptional need for immediate classroom facilities~~ to use in applying for assistance under this section.

(3) The commission shall evaluate the classroom facilities, and the need for replacement classroom facilities from the applications received under this section. The commission, utilizing the guidelines adopted under division (B)(2)(a) of this section, shall prioritize the school districts to be assessed.

Notwithstanding section 3318.02 of the Revised Code, the commission may conduct on-site evaluation of the school districts prioritized under this section and approve and award funds until such time as all funds set aside under division (B)(1) of this section have been encumbered ~~under section 3318.04 of the Revised Code.~~ However, the commission need not conduct the evaluation of facilities if the commission determines that a district's assessment conducted under section 3318.36 of the Revised Code is sufficient for purposes of this section.

(4) Notwithstanding division (A) of section 3318.05 of the Revised Code, the school district's portion of the basic project cost under this section shall be the "required percentage of the basic project costs," as defined in division (K) of section 3318.01 of the Revised Code.

(5) Except as otherwise specified in this section, any project undertaken with assistance under this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code. A school district may receive assistance under sections 3318.01 to 3318.20 of the Revised Code for the remainder of the district's classroom facilities needs as assessed under this section when the district is eligible for such assistance pursuant to section 3318.02 of the Revised Code, but any classroom facility constructed with assistance under this section shall not be included in a district's project at that time unless the commission determines the district has experienced the increased enrollment specified in division (B)(1) of section 3318.04 of the Revised Code.

(C) No school district shall receive assistance under this section for a classroom facility that has been included in the discrete part of the district's classroom facilities needs identified and addressed in the district's project pursuant to an agreement entered into under section 3318.36 of the Revised

Code.

Sec. 3318.41. (A)(1) The Ohio school facilities commission annually shall assess the classroom facilities needs of the number of joint vocational school districts that the commission reasonably expects to be able to provide assistance to in a fiscal year, based on the amount set aside for that fiscal year under division (B) of section 3318.40 of the Revised Code and the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, except that in fiscal year 2004 the commission shall conduct at least the five assessments prescribed in division (E) of section 3318.40 of the Revised Code.

Upon conducting an assessment of the classroom facilities needs of a school district, the commission shall make a determination of all of the following:

(a) The number of classroom facilities to be included in a project; ~~including classroom facilities authorized by a bond issued described in section 3318.033 of the Revised Code;~~ and the basic project cost of acquiring the classroom facilities included in the project. The number of facilities and basic project cost shall be determined in accordance with the specifications adopted under section 3318.311 of the Revised Code except to the extent that compliance with such specifications is waived by the commission pursuant to the rule of the commission adopted under division (F) of section 3318.40 of the Revised Code.

(b) The school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code;

(c) The remaining portion of the basic project cost that shall be supplied by the state;

(d) The amount of the state's portion of the basic project cost to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal bienniums from funds set aside under division (B) of section 3318.40 of the Revised Code.

(2) Divisions (A), (C), and (D) of section 3318.03 of the Revised Code apply to any project under sections 3318.40 to 3318.45 of the Revised Code.

(B)(1) If the commission makes a determination under division (A) of this section in favor of the acquisition of classroom facilities for a project under sections 3318.40 to 3318.45 of the Revised Code, such project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval. The controlling board shall immediately approve or reject the commission's determination, conditional approval, the amount of the state's portion of the basic project cost, and the amount of the state's portion of the basic project cost to be encumbered in the current fiscal

biennium. In the event of approval by the controlling board, the commission shall certify the conditional approval to the joint vocational school district board of education and shall encumber the approved funds for the current fiscal year.

(2) No school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code shall have another such project conditionally approved until the expiration of twenty years after the school district's prior project was conditionally approved, unless the school district board demonstrates to the satisfaction of the commission that the school district has experienced since conditional approval of its prior project an exceptional increase in enrollment or program requirements significantly above the school district's design capacity under that prior project as determined by rule of the commission. Any rule adopted by the commission to implement this division shall be tailored to address the classroom facilities needs of joint vocational school districts.

(C) In addition to generating the amount of the school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code, in order for a school district to receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the school district board shall set aside school district moneys for the maintenance of the classroom facilities included in the school district's project in the amount and manner prescribed in section 3318.43 of the Revised Code.

(D)(1) The conditional approval for a project certified under division (B)(1) of this section shall lapse and the amount reserved and encumbered for such project shall be released unless both of the following conditions are satisfied:

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within one year following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and

encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available.

(E) If the conditions prescribed in division (D)(1) of this section are satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) The state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3319.01. Except in an island school district, where the superintendent of an educational service center otherwise may serve as superintendent of the district and except as otherwise provided for any cooperative education school district pursuant to division (B)(2) of section 3311.52 or division (B)(3) of section 3311.521 of the Revised Code, the board of education in each school district and the governing board of each service center shall, at a regular or special meeting held not later than the first day of May of the calendar year in which the term of the superintendent expires, appoint a person possessed of the qualifications provided in this section to act as superintendent, for a term not longer than five years beginning the first day of August and ending on the thirty-first day of July. Such superintendent is, at the expiration of a current term of employment, deemed reemployed for a term of one year at the same salary plus any increments that may be authorized by the board, unless such board, on or before the first day of March of the year in which the contract of employment expires, either reemploys the superintendent for a succeeding term as provided in this section or gives to the superintendent written notice of its intention not to reemploy the superintendent. A superintendent may

not be transferred to any other position during the term of the superintendent's employment or reemployment except by mutual agreement by the superintendent and the board. If a vacancy occurs in the office of superintendent, the board shall appoint a superintendent for a term not to exceed five years from the next preceding first day of August.

~~Except as otherwise provided in this section, the employment or reemployment of a superintendent of a local school district shall be only upon the recommendation of the service center superintendent, except that a local board of education, by a three-fourths vote of its full membership, may, after considering two nominations for the position of local superintendent made by the service center superintendent, employ or reemploy a person not so nominated for such position.~~

A board may at any regular or special meeting held during the period beginning on the first day of January of the calendar year immediately preceding the year the contract of employment of a superintendent expires and ending on the first day of March of the year it expires, reemploy such superintendent for a succeeding term for not longer than five years, beginning on the first day of August immediately following the expiration of the superintendent's current term of employment and ending on the thirty-first day of July of the year in which such succeeding term expires. No person shall be appointed to the office of superintendent of a city, or exempted village school district or a service center who does not hold a license designated for being a superintendent issued under section 3319.22 of the Revised Code, unless such person had been employed as a county, city, or exempted village superintendent prior to August 1, 1939. No person shall be appointed to the office of local superintendent who does not hold a license designated for being a superintendent issued under section 3319.22 of the Revised Code, unless such person held or was qualified to hold the position of executive head of a local school district on September 16, 1957. At the time of making such appointment or designation of term, such board shall fix the compensation of the superintendent, which may be increased or decreased during such term, provided such decrease is a part of a uniform plan affecting salaries of all employees of the district, and shall execute a written contract of employment with such superintendent.

Each board shall adopt procedures for the evaluation of its superintendent and shall evaluate its superintendent in accordance with those procedures. An evaluation based upon such procedures shall be considered by the board in deciding whether to renew the superintendent's contract. The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in this section shall prevent a

board from making the final determination regarding the renewal or failure to renew of a superintendent's contract.

Termination of a superintendent's contract shall be pursuant to section 3319.16 of the Revised Code.

A board may establish vacation leave for its superintendent. Upon the superintendent's separation from employment a board that has such leave may provide compensation at the superintendent's current rate of pay for all lawfully accrued and unused vacation leave to the superintendent's credit at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of a superintendent, such unused vacation leave as the board would have paid to this superintendent upon separation shall be paid in accordance with section 2113.04 of the Revised Code, or to the superintendent's estate.

The superintendent shall be the executive officer for the board. ~~Except as otherwise provided in this section for local school districts, the~~ The superintendent shall direct and assign teachers and other employees of the district or service center, except as provided in section 3319.04 of the Revised Code; assign the pupils to the proper schools and grades, provided that the assignment of a pupil to a school outside of the pupil's district of residence is approved by the board of the district of residence of such pupil; and perform such other duties as the board determines. ~~The service center superintendent shall exercise the responsibilities of this section with regard to the assignment of pupils and teachers for local school districts under the supervision of the service center, except that the board of education of a local school district and the governing board of the educational service center of which the local district is a part may enter into an agreement requiring the local superintendent, instead of the superintendent of the educational service center, to exercise the responsibilities of this section with regard to the assignment of pupils and teachers for the local school district.~~

The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for the superintendent position authorized under this section.

Sec. 3319.02. (A)(1) As used in this section, "other administrator" means ~~either~~ any of the following:

(a) Except as provided in division (A)(2) of this section, any employee in a position for which a board of education requires a license designated by rule of the department of education for being an administrator issued under section 3319.22 of the Revised Code, including a professional pupil services

employee or administrative specialist or an equivalent of either one who is not employed as a school counselor and spends less than fifty per cent of the time employed teaching or working with students;

(b) Any nonlicensed employee whose job duties enable such employee to be considered as either a "supervisor" or a "management level employee," as defined in section 4117.01 of the Revised Code;

(c) A business manager appointed under section 3319.03 of the Revised Code.

(2) As used in this section, "other administrator" does not include a superintendent, assistant superintendent, principal, or assistant principal.

(B) The board of education of each school district and the governing board of an educational service center may appoint one or more assistant superintendents and such other administrators as are necessary. An assistant educational service center superintendent or service center supervisor employed on a part-time basis may also be employed by a local board as a teacher. The board of each city, exempted village, and local school district shall employ principals for all high schools and for such other schools as the board designates, and those boards may appoint assistant principals for any school that they designate.

(C) In educational service centers and in city and, exempted village, and local school districts, assistant superintendents, principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent, except that a city or exempted village board of education of a school district or the governing board of a service center, by a three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom the superintendent refuses to nominate. In local school districts, assistant superintendents, principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent of the service center of which the local district is a part, except that a local board of education, by a three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom such superintendent refuses to nominate.

The board of education or governing board shall execute a written contract of employment with each assistant superintendent, principal, assistant principal, and other administrator it employs or reemploys. The term of such contract shall not exceed three years except that in the case of a person who has been employed as an assistant superintendent, principal, assistant principal, or other administrator in the district or center for three

years or more, the term of the contract shall be for not more than five years and, unless the superintendent of the district recommends otherwise, not less than two years. If the superintendent so recommends, the term of the contract of a person who has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more may be one year, but all subsequent contracts granted such person shall be for a term of not less than two years and not more than five years. When a teacher with continuing service status becomes an assistant superintendent, principal, assistant principal, or other administrator with the district or service center with which the teacher holds continuing service status, the teacher retains such status in the teacher's nonadministrative position as provided in sections 3319.08 and 3319.09 of the Revised Code.

A board of education or governing board may reemploy an assistant superintendent, principal, assistant principal, or other administrator at any regular or special meeting held during the period beginning on the first day of January of the calendar year immediately preceding the year of expiration of the employment contract and ending on the last day of March of the year the employment contract expires.

Except by mutual agreement of the parties thereto, no assistant superintendent, principal, assistant principal, or other administrator shall be transferred during the life of a contract to a position of lesser responsibility. No contract may be terminated by a board except pursuant to section 3319.16 of the Revised Code. No contract may be suspended except pursuant to section 3319.17 or 3319.171 of the Revised Code. The salaries and compensation prescribed by such contracts shall not be reduced by a board unless such reduction is a part of a uniform plan affecting the entire district or center. The contract shall specify the employee's administrative position and duties as included in the job description adopted under division (D) of this section, the salary and other compensation to be paid for performance of duties, the number of days to be worked, the number of days of vacation leave, if any, and any paid holidays in the contractual year.

An assistant superintendent, principal, assistant principal, or other administrator is, at the expiration of the current term of employment, deemed reemployed at the same salary plus any increments that may be authorized by the board, unless such employee notifies the board in writing to the contrary on or before the first day of June, or unless such board, on or before the last day of March of the year in which the contract of employment expires, either reemploys such employee for a succeeding term or gives written notice of its intention not to reemploy the employee. The

term of reemployment of a person reemployed under this paragraph shall be one year, except that if such person has been employed by the school district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the term of reemployment shall be two years.

(D)(1) Each board shall adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals, and other administrators and shall evaluate such employees in accordance with those procedures. The evaluation based upon such procedures shall be considered by the board in deciding whether to renew the contract of employment of an assistant superintendent, principal, assistant principal, or other administrator.

(2) The evaluation shall measure each assistant superintendent's, principal's, assistant principal's, and other administrator's effectiveness in performing the duties included in the job description and the evaluation procedures shall provide for, but not be limited to, the following:

(a) Each assistant superintendent, principal, assistant principal, and other administrator shall be evaluated annually through a written evaluation process.

(b) The evaluation shall be conducted by the superintendent or designee.

(c) In order to provide time to show progress in correcting the deficiencies identified in the evaluation process, the evaluation process shall be completed as follows:

(i) In any school year that the employee's contract of employment is not due to expire, at least one evaluation shall be completed in that year. A written copy of the evaluation shall be provided to the employee no later than the end of the employee's contract year as defined by the employee's annual salary notice.

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract of any assistant superintendent, principal, assistant principal, or other administrator. However, if a board fails to provide evaluations pursuant to division (D)(2)(c)(i) or (ii) of this section, or if the board fails to provide at the request of the employee a meeting as prescribed in division (D)(4) of this section, the employee automatically shall be reemployed at the same salary plus any increments that may be authorized by the board for a period of one year, except that if the employee has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the period of reemployment shall be for two years.

(E) On nomination of the superintendent of a service center a governing board may employ supervisors who shall be employed under written contracts of employment for terms not to exceed five years each. Such contracts may be terminated by a governing board pursuant to section 3319.16 of the Revised Code. Any supervisor employed pursuant to this division may terminate the contract of employment at the end of any school year after giving the board at least thirty days' written notice prior to such termination. On the recommendation of the superintendent the contract or contracts of any supervisor employed pursuant to this division may be suspended for the remainder of the term of any such contract pursuant to section 3319.17 or 3319.171 of the Revised Code.

(F) A board may establish vacation leave for any individuals employed under this section. Upon such an individual's separation from employment, a board that has such leave may compensate such an individual at the individual's current rate of pay for all lawfully accrued and unused vacation leave credited at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of an

individual employed under this section, such unused vacation leave as the board would have paid to the individual upon separation under this section shall be paid in accordance with section 2113.04 of the Revised Code, or to the estate.

(G) The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for assistant superintendent, principal, assistant principal, and other administrator positions authorized under this section.

Sec. 3319.03. The board of education of each city, exempted village, and local school district may create the position of business manager. The board shall ~~elect~~ appoint such business manager who shall serve ~~for a term not to exceed four years unless earlier removed for cause pursuant to a contract in accordance with section 3319.02 of the Revised Code. A vacancy in this office shall be filled only for the unexpired term thereof.~~ In the discharge of all ~~his~~ official duties, the business manager may be directly responsible to the board, or to the superintendent of schools, as the board directs at the time of ~~election~~ appointment to the position. Where such business manager is responsible to the superintendent ~~he~~ the business manager shall be appointed by the superintendent and confirmed by the board.

No board of education shall ~~elect~~ appoint or confirm as business manager any person who does not hold a valid business manager's license issued under section 3301.074 of the Revised Code. If the business manager fails to maintain a valid license, ~~he~~ the business manager shall be removed by the board.

Sec. 3319.07. (A) The board of education of each city, exempted village, ~~and~~ local, and joint vocational school district shall employ the teachers of the public schools of their respective districts.

The governing board of each educational service center may employ special instruction teachers, special education teachers, and teachers of academic courses in which there are too few students in each of the constituent local school districts or in city or exempted village school districts entering into agreements pursuant to section 3313.843 of the Revised Code to warrant each district's employing teachers for those courses.

When any board makes appointments of teachers, the teachers in the employ of the board shall be considered before new teachers are chosen in their stead. In ~~city, exempted village, and joint vocational~~ all school districts and in service centers no teacher shall be employed unless such person is

nominated by the superintendent of such district or center. Such board, by a three-fourths vote of its full membership, may re-employ any teacher whom the superintendent refuses to appoint. ~~In local school districts, no teacher shall be employed, except as provided in division (B) of this section, unless nominated by the superintendent of the service center of which such local school district is a part; by a majority vote of the full membership of such board, the board of education of any local school district may, after considering two nominations for any position made by the service center superintendent, reemploy a person not so nominated for such position.~~

(B) ~~The board of education of a local any school district and the board of education of the county school district of which the local district is a part may enter into an agreement authorizing the superintendent of the local district, in lieu of the superintendent of the county district, to make nominations under this section for the employment of teachers in the local district. While such an agreement is in effect the board of education of the local district shall not employ any teacher unless the person is nominated by the superintendent of the district except that, by a three-fourths vote of its full membership, it may re-employ any teacher whom the superintendent refuses to nominate~~ may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for teacher positions.

Sec. 3319.19. (A) Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, upon request, the board of county commissioners shall provide and equip offices in the county for the use of the superintendent of an educational service center, and shall provide heat, light, water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the governing board of the service center when it is in session. Except as provided in division (B) of this section, such offices shall be located in the county seat or, upon the approval of the governing board, may be located outside of the county seat.

(B) In the case of a service center formed under section 3311.053 or 3311.059 of the Revised Code, the governing board shall designate the site of its offices. Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, the board of county commissioners of the county in which the designated site is located shall provide and equip the offices as under division (A) of this section, but the costs of such offices and equipment shall be apportioned among the boards of county commissioners of all counties having any territory in the area under the control of the governing board, according to the proportion of

local school district pupils under the supervision of such board residing in the respective counties. Where there is a dispute as to the amount any board of county commissioners is required to pay, the probate judge of the county in which the greatest number of pupils under the supervision of the governing board reside shall apportion such costs among the boards of county commissioners and notify each such board of its share of the costs.

(C) ~~Not~~ As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

- (1) The total square feet of space to be utilized by the educational service center;
- (2) The total square feet of any common areas that should be reasonably allocated to the center and the methodology for making this allocation;
- (3) The actual cost per square foot for both the space utilized by and the common area allocated to the center;
- (4) An explanation of the methodology used to determine the actual cost per square foot ~~cost~~;
- (5) The estimated cost of providing heat, light, and water, including an explanation of how these costs were determined;
- (6) The estimated cost of providing janitorial services including an explanation of the methodology used to determine this cost;
- (7) Any other estimated costs that the board anticipates it will occur and a detailed explanation of the costs and the rationale used to determine such costs.

A copy of the total estimate of costs under this division shall be sent to the superintendent of the educational service center not later than the fifth

day of April. The superintendent shall review the total estimate and shall notify the board of county commissioners not later than twenty days after receipt of the estimate of either agreement with the estimate or any specific objections to the estimates and the reasons for the objections. If the superintendent agrees with the estimate, it shall become the final total estimate of cost. Failure of the superintendent to make objections to the estimate by the twentieth day after receipt of it shall be deemed to mean that the superintendent is in agreement with the estimate.

If the superintendent provides specific objections to the board of county commissioners, the board shall review the objections and may modify the original estimate and shall send a revised total estimate to the superintendent within ten days after the receipt of the superintendent's objections. The superintendent shall respond to the revised estimate within ten days after its receipt. If the superintendent agrees with it, it shall become the final total estimated cost. If the superintendent fails to respond within the required time, the superintendent shall be deemed to have agreed with the revised estimate. If the superintendent disagrees with the revised estimate, the superintendent shall send specific objections to the county commissioners.

If a superintendent has sent specific objections to the revised estimate within the required time, the probate judge of the county which has the greatest number of resident local school district pupils under the supervision of the educational service center shall determine the final estimated cost and certify this amount to the superintendent and the board of county commissioners prior to the first day of July.

(D)(1) A board of county commissioners shall be responsible for the following percentages of the final total estimated cost established by division (C) of this section:

- (a) Eighty per cent for fiscal year 2003;
- (b) Sixty per cent for fiscal year 2004;
- (c) Forty per cent for fiscal year 2005;
- (d) Twenty per cent for fiscal year 2006.

In fiscal years 2003, 2004, 2005, and 2006 the educational service center shall be responsible for the remainder of any costs in excess of the amounts specified in division (D)(1)(a),(b), ~~or (c)~~, or (d) of this section, as applicable, associated with the provision and equipment of offices for the educational service center and for provision of heat, light, water, and janitorial services for such offices, including any unanticipated or unexpected increases in the costs beyond the final estimated cost amount.

Beginning in fiscal year 2007, no board of county commissioners shall have any obligation to provide and equip offices for an educational service

center or to provide heat, light, water, or janitorial services for such offices.

(2) Nothing in this section shall prohibit the board of county commissioners and the governing board of an educational service center from entering into a contract for providing and equipping offices for the use of an educational service center and for providing heat, light, water, and janitorial services for such offices. The term of any such contract shall not exceed a period of four years and may be renewed for additional periods not to exceed four years. Any such contract shall supersede the provisions of division (D)(1) of this section and no educational service center may be charged, at any time, any additional amount for the county's provision of an office and equipment, heat, light, water, and janitorial services beyond the amount specified in such contract.

(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 or 3311.059 of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract.

Sec. 3319.22. (A)(1) The state board of education shall adopt rules establishing the standards and requirements for obtaining temporary, associate, provisional, and professional educator licenses of any categories, types, and levels the board elects to provide. However, no educator license shall be required for teaching children two years old or younger.

(2) If the state board requires any examinations for educator licensure, the department of education shall provide the results of such examinations received by the department to the Ohio board of regents, in the manner and to the extent permitted by state and federal law.

(B) Any rules the state board of education adopts, amends, or rescinds for educator licenses under this section, division (D) of section 3301.07 of the Revised Code, or any other law shall be adopted, amended, or rescinded under Chapter 119. of the Revised Code except as follows:

(1) Notwithstanding division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code, the effective date of any rules, or amendment or rescission of any rules, shall not be as prescribed in division (D) of section 119.03 and division (A)(1) of section 119.04 of the Revised Code. Instead, the effective date shall be the date prescribed by section 3319.23 of the Revised Code.

(2) Notwithstanding the authority to adopt, amend, or rescind

emergency rules in division (F) of section 119.03 of the Revised Code, this authority shall not apply to the state board of education with regard to rules for educator licenses.

(C)(1) The rules adopted under this section establishing standards requiring additional coursework for the renewal of any educator license shall require a school district and a chartered nonpublic school to establish local professional development committees. In a nonpublic school, the chief administrative officer shall establish the committees in any manner acceptable to such officer. The committees established under this division shall determine whether coursework that a district or chartered nonpublic school teacher proposes to complete meets the requirement of the rules. The rules shall establish a procedure by which a teacher may appeal the decision of a local professional development committee.

(2) In any school district in which there is no exclusive representative established under Chapter 4117. of the Revised Code, the professional development committees shall be established as described in division (C)(2) of this section.

Not later than the effective date of the rules adopted under this section, the board of education of each school district shall establish the structure for one or more local professional development committees to be operated by such school district. The committee structure so established by a district board shall remain in effect unless within thirty days prior to an anniversary of the date upon which the current committee structure was established, the board provides notice to all affected district employees that the committee structure is to be modified. Professional development committees may have a district-level or building-level scope of operations, and may be established with regard to particular grade or age levels for which an educator license is designated.

Each professional development committee shall consist of at least three classroom teachers employed by the district, one principal employed by the district, and one other employee of the district appointed by the district superintendent. For committees with a building-level scope, the teacher and principal members shall be assigned to that building, and the teacher members shall be elected by majority vote of the classroom teachers assigned to that building. For committees with a district-level scope, the teacher members shall be elected by majority vote of the classroom teachers of the district, and the principal member shall be elected by a majority vote of the principals of the district, unless there are two or fewer principals employed by the district, in which case the one or two principals employed shall serve on the committee. If a committee has a particular grade or age

level scope, the teacher members shall be licensed to teach such grade or age levels, and shall be elected by majority vote of the classroom teachers holding such a license and the principal shall be elected by all principals serving in buildings where any such teachers serve. The district superintendent shall appoint a replacement to fill any vacancy that occurs on a professional development committee, except in the case of vacancies among the elected classroom teacher members, which shall be filled by vote of the remaining members of the committee so selected.

Terms of office on professional development committees shall be prescribed by the district board establishing the committees. The conduct of elections for members of professional development committees shall be prescribed by the district board establishing the committees. A professional development committee may include additional members, except that the majority of members on each such committee shall be classroom teachers employed by the district. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term.

The initial meeting of any professional development committee, upon election and appointment of all committee members, shall be called by a member designated by the district superintendent. At this initial meeting, the committee shall select a chairperson and such other officers the committee deems necessary, and shall adopt rules for the conduct of its meetings. Thereafter, the committee shall meet at the call of the chairperson or upon the filing of a petition with the district superintendent signed by a majority of the committee members calling for the committee to meet.

(3) In the case of a school district in which an exclusive representative has been established pursuant to Chapter 4117. of the Revised Code, professional development committees shall be established in accordance with any collective bargaining agreement in effect in the district that includes provisions for such committees.

If the collective bargaining agreement does not specify a different method for the selection of teacher members of the committees, the exclusive representative of the district's teachers shall select the teacher members.

If the collective bargaining agreement does not specify a different structure for the committees, the board of education of the school district shall establish the structure, including the number of committees and the number of teacher and administrative members on each committee; the specific administrative members to be part of each committee; whether the scope of the committees will be district levels, building levels, or by type of

grade or age levels for which educator licenses are designated; the lengths of terms for members; the manner of filling vacancies on the committees; and the frequency and time and place of meetings. However, in all cases, except as provided in division (C)(4) of this section, there shall be a majority of teacher members of any professional development committee, there shall be at least five total members of any professional development committee, and the exclusive representative shall designate replacement members in the case of vacancies among teacher members, unless the collective bargaining agreement specifies a different method of selecting such replacements.

(4) Whenever an administrator's coursework plan is being discussed or voted upon, the local professional development committee shall, at the request of one of its administrative members, cause a majority of the committee to consist of administrative members by reducing the number of teacher members voting on the plan.

(D)(1) The department of education, educational service centers, county boards of mental retardation and developmental disabilities, regional professional development centers, special education regional resource centers, college and university departments of education, head start programs, the Ohio SchoolNet commission, and the Ohio education computer network may establish local professional development committees to determine whether the coursework proposed by their employees who are licensed or certificated under this section or section 3319.222 of the Revised Code meet the requirements of the rules adopted under this section. They may establish local professional development committees on their own or in collaboration with a school district or other agency having authority to establish them.

Local professional development committees established by county boards of mental retardation and developmental disabilities shall be structured in a manner comparable to the structures prescribed for school districts in divisions (C)(2) and (3) of this section, as shall the committees established by any other entity specified in division (D)(1) of this section that provides educational services by employing or contracting for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code. All other entities specified in division (D)(1) of this section shall structure their committees in accordance with guidelines which shall be issued by the state board.

(2) Any public agency that is not specified in division (D)(1) of this section but provides educational services and employs or contracts for services of classroom teachers licensed or certificated under this section or section 3319.222 of the Revised Code may establish a local professional

development committee, subject to the approval of the department of education. The committee shall be structured in accordance with guidelines issued by the state board.

Sec. 3319.33. On or before the first day of August in each year, the board of education of each city ~~and, exempted village, and local~~ school district shall report to the state board of education, ~~and the board of each local school district shall report to the superintendent of the educational service center,~~ the school statistics of its district. Such report shall be made on forms furnished by the state board of education and shall contain such information as the state board of education requires. The report shall also set forth with respect to each civil proceeding in which the board of education is a defendant and each civil proceeding in which the board of education is a party and is not a defendant and in which one of the other parties is a board of education in this state or an officer, board, or official of this state:

(A) The nature of the proceeding;

(B) The capacity in which the board is a party to the proceeding;

(C) The total expenses incurred by the board with respect to the proceeding;

(D) The total expenses incurred by the board with respect to the proceeding during the reporting period.

Divisions (A) to (D) of this section do not apply to any proceeding for which no expenses have been incurred during the reporting period.

The board of education of each city ~~and, exempted village, and local~~ school district may prepare and publish annually a report of the condition and administration of the schools under its supervision which shall include therein an exhibit of the financial affairs of the district and the information required in divisions (A) to (D) of this section. Such annual report shall be for a full year.

Sec. 3319.36. (A) No treasurer of a board of education or educational service center shall draw a check for the payment of a teacher for services until the teacher files with the treasurer both of the following:

(1) Such reports as are required by the state board of education, the school district board of education, or the superintendent of schools;

(2) Except for a teacher who is engaged pursuant to section 3319.301 of the Revised Code ~~and except as provided under division (B) of this section,~~ a written statement from the city ~~or, exempted village, or local~~ school district superintendent or the educational service center superintendent that the teacher has filed with the treasurer a legal educator license or internship certificate, or true copy of it, to teach the subjects or grades taught, with the dates of its validity. The state board of education shall prescribe the record

and administration for such filing of educator licenses and internship certificates in educational service centers.

~~(B) If the board of education of a local school district and the governing board of the educational service center of which the local district is a part have entered into an agreement under division (B) of section 3319.07 of the Revised Code, the agreement may also require the superintendent of the local school district, instead of the superintendent of the educational service center, to administer the filing of educator licenses and internship certificates for the local school district and to provide to the teachers of the district the written statements required in division (A)(2) of this section. While such an agreement is in effect between a local school district and an educational service center, a teacher employed by the local district shall file a legal educator license or internship certificate, or true copy of it, with the superintendent of the local district and that superintendent shall provide to the teacher the written statement required by division (A)(2) of this section.~~

~~(C)~~ Notwithstanding division (A) of this section, the treasurer may pay either of the following:

(1) Any teacher for services rendered during the first two months of the teacher's initial employment with the school district or educational service center, provided such teacher is the holder of a bachelor's degree or higher and has filed with the state board of education an application for the issuance of a provisional or professional educator license.

(2) Any substitute teacher for services rendered while conditionally employed under section 3319.101 of the Revised Code.

~~(D)~~(C) Upon notice to the treasurer given by the state board of education or any superintendent having jurisdiction that reports required of a teacher have not been made, the treasurer shall withhold the salary of the teacher until the required reports are completed and furnished.

Sec. 3319.55. (A) A grant program is hereby established to recognize and reward public school teachers who hold valid teaching certificates or licenses issued by the national board for professional teaching standards. The superintendent of public instruction shall administer this program in accordance with this section and rules which the state board of education shall adopt in accordance with Chapter 119. of the Revised Code.

In each fiscal year that the general assembly appropriates funds for purposes of this section, the superintendent of public instruction shall award a grant to each person who, by the first day of August of that year and in accordance with the rules adopted under this section, submits to the superintendent evidence indicating ~~both~~ all of the following:

(1) The person holds a valid certificate or license issued by the national

board for professional teaching standards;

(2) The person was employed full-time as a teacher by the board of education of a school district in this state during the school year that immediately preceded the fiscal year;

(3) The date the person was accepted into the national board certification or licensure program.

An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section.

(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal ~~two~~ the following:

(1) Two thousand five hundred dollars except that for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004;

(2) One thousand dollars for any other teacher issued a certificate or license by the national board.

However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person ~~shall equal the amount obtained by dividing the total amount of funds appropriated for purposes of this section in the fiscal year by the total number of persons eligible for a grant under this section for the fiscal year.~~

Sec. 3323.16. No unit for deaf children shall be disapproved for funding under division (B) or (D)(1) of section 3317.05 of the Revised Code on the basis of the methods of instruction used in educational programs in the school district or institution to teach deaf children to communicate, and no preference in approving units for funding shall be given ~~by the state board~~ for teaching deaf children by the oral, manual, total communication, or other method of instruction.

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and sections 3327.011, 3327.012, and 3327.02 of the Revised Code do not apply to any joint vocational or cooperative education school district.

In all city, local, and exempted village school districts where resident school pupils in grades kindergarten through eight live more than two miles from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and to which they are assigned by the board of education of the district of

residence or to and from the nonpublic or community school which they attend the board of education shall provide transportation for such pupils to and from such school except as provided in section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts the board may provide transportation for resident school pupils in grades nine through twelve to and from the high school to which they are assigned by the board of education of the district of residence or to and from the nonpublic or community high school which they attend for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code.

A board of education shall not be required to transport elementary or high school pupils to and from a nonpublic or community school where such transportation would require more than thirty minutes of direct travel time as measured by school bus from the collection point as designated by ~~the coordinator of school transportation, appointed under section 3327.011 of the Revised Code, for the attendance area~~ of the district of residence.

Where it is impractical to transport a pupil by school conveyance, a board of education may offer payment, in lieu of providing such transportation in accordance with section 3327.02 of the Revised Code.

In all city, local, and exempted village school districts the board shall provide transportation for all children who are so crippled that they are unable to walk to and from the school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code and which they attend. In case of dispute whether the child is able to walk to and from the school, the health commissioner shall be the judge of such ability. In all city, exempted village, and local school districts the board shall provide transportation to and from school or special education classes for educable mentally retarded children in accordance with standards adopted by the state board of education.

When transportation of pupils is provided the conveyance shall be run on a time schedule that shall be adopted and put in force by the board not later than ten days after the beginning of the school term.

The cost of any transportation service authorized by this section shall be paid first out of federal funds, if any, available for the purpose of pupil transportation, and secondly out of state appropriations, in accordance with regulations adopted by the state board of education.

No transportation of any pupils shall be provided by any board of education to or from any school which in the selection of pupils, faculty members, or employees, practices discrimination against any person on the

grounds of race, color, religion, or national origin.

~~Sec. 3327.011. Coordinators of school transportation shall be appointed according to provisions of section 3301.13 of the Revised Code to assure that each pupil, as provided in section 3327.01 of the Revised Code, is transported to and from the school which he attends in a safe, expedient, and economical manner using public school collection points, routes, and schedules.~~

In determining how best to provide ~~such~~ transportation, where persons or firms on or after April 1, 1965, were providing transportation to and from schools pursuant to contracts with persons or agencies responsible for the operation of such schools, ~~a coordinator or~~ the board of education responsible for transportation in accordance with section 3327.01 of the Revised Code shall give preference if economically feasible during the term of any such contract to the firm or person providing such transportation. The boards of education within the county or group of counties shall ~~recommend to the coordinator of~~ establish transportation routes, schedules, and utilization of transportation equipment. ~~The coordinator, upon receipt of such recommendations, shall establish transportation routes, schedules, and utilization of transportation equipment, following such recommendations to whatever extent is feasible.~~ The appeals from the determination of the ~~coordinator~~ board of education responsible for transportation shall be taken to the state board of education.

Sec. 3329.06. The board of education of each city, exempted village, and local school district shall furnish, free of charge, the necessary textbooks to the pupils attending the public schools. In lieu of textbooks, district boards may furnish electronic textbooks to pupils attending the public schools, provided the electronic textbooks are furnished free of charge. A district board that chooses to furnish electronic textbooks to pupils attending school in the district shall provide reasonable access to the electronic textbooks and other necessary computer equipment to pupils in the district who are required to complete homework assignments, and teachers providing homework assignments, utilizing electronic textbooks furnished by the district board. Pupils wholly or in part supplied with necessary textbooks or electronic textbooks shall be supplied only as other or new textbooks or electronic textbooks are needed. ~~A board may limit its purchase and ownership of textbooks or electronic textbooks needed for its schools to six subjects per year, the cost of which shall not exceed twenty five per cent of the entire cost of adoption.~~ All textbooks or electronic textbooks furnished as provided in this section shall be the property of the district, and loaned to the pupils on such terms as each such

board prescribes. In order to carry out sections 3329.01 to 3329.10 of the Revised Code, each board, in the preparation of its annual budget, shall include as a separate item the amount which the board finds necessary to administer such sections and such amount shall not be subject to transfer to any other fund.

Sec. 3329.08. At any regular meeting, the board of education of each local school district, from lists adopted by the educational service center governing board, and the board of education of each city and exempted village school district shall determine by a majority vote of all members elected or appointed under division (B) or (F) of section 3311.71 of the Revised Code which of such textbooks or electronic textbooks so filed shall be used in the schools under its control. ~~Except for periodic and normal updating of electronic textbooks, no textbooks or electronic textbooks shall be changed, nor any part thereof altered or revised, nor any other textbook or electronic textbook substituted therefor, within four years after the date of selection and adoption thereof, as shown by the official records of such boards, except by the consent, at a regular meeting, of four fifths of all members elected thereto. Textbooks or electronic textbooks so substituted shall be adopted for the full term of four years.~~

Sec. 3332.04. The state board of career colleges and schools may appoint an executive director and such other staff as may be required for the performance of the board's duties and provide necessary facilities. In selecting an executive director, the board shall appoint an individual with a background or experience in the regulation of commerce, business, or education. The board may also arrange for services and facilities to be provided by the state board of education and the Ohio board of regents. All receipts of the board shall be deposited in the state treasury to the credit of the general revenue occupational licensing and regulatory fund.

Sec. 3333.12. (A) As used in this section:

(1) "Eligible student" means an undergraduate student who is:

(a) An Ohio resident;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours necessary to complete the requirements of the program in which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship, income earned by the student between the last day of the spring term and the first day of the fall term, and other income exclusions designated by the board. Gross income may be verified to the board by the institution in which the student is enrolled using the federal financial aid eligibility verification process or by other means satisfactory to the board.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(b) and (c) of

this section. Instructional grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution Table of Grants Maximum Grant \$5,466 Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178
\$33,001 - \$34,000	888	984	1,080	1,344	1,626
\$34,001 - \$35,000	444	888	984	1,080	1,344

\$35,001 - \$36,000	--	444	888	984	1,080
\$36,001 - \$37,000	--	--	444	888	984
\$37,001 - \$38,000	--	--	--	444	888
\$38,001 - \$39,000	--	--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution Table of Grants Maximum Grant \$5,466						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466
\$5,301 - \$5,800	4,362	~~4,920~~ 5,196	5,466	5,466	5,466	5,466
\$5,801 - \$6,300	3,828	~~4,362~~ 4,914	~~4,920~~ 5,196	5,466	5,466	5,466
\$6,301 - \$6,800	3,288	~~3,828~~ 4,650	~~4,362~~ 4,914	~~4,920~~ 5,196	5,466	5,466
\$6,801 - \$7,300	2,736	~~3,288~~ 4,380	~~3,828~~ 4,650	~~4,362~~ 4,914	~~4,920~~ 5,196	5,466
\$7,301 - \$8,300	2,178	~~2,736~~ 4,104	~~3,288~~ 4,380	~~3,828~~ 4,650	~~4,362~~ 4,914	~~4,920~~ 5,196
\$8,301 - \$9,300	1,626	~~2,178~~ 3,822	~~2,736~~ 4,104	~~3,288~~ 4,380	~~3,828~~ 4,650	~~4,362~~ 4,914
\$9,301 - \$10,300	1,344	~~1,626~~ 3,546	~~2,178~~ 3,822	~~2,736~~ 4,104	~~3,288~~ 4,380	~~3,828~~ 4,650
\$10,301 - \$11,800	1,080	~~1,344~~ 3,408	~~1,626~~ 3,546	~~2,178~~ 3,822	~~2,736~~ 4,104	~~3,288~~ 4,380
\$11,801 - \$13,300	984	~~1,080~~ 3,276	~~1,344~~ 3,408	~~1,626~~ 3,546	~~2,178~~ 3,822	~~2,736~~ 4,104
\$13,301 - \$14,800	888	~~984~~ 3,228	~~1,080~~ 3,276	~~1,344~~ 3,408	~~1,626~~ 3,546	~~2,178~~ 3,822
\$14,801 - \$16,300	444	~~888~~ 2,904	~~984~~ 3,228	~~1,080~~ 3,276	~~1,344~~ 3,408	~~1,626~~ 3,546

\$16,301 - \$19,300	--	444	888	984	~~1,080~~	~~1,344~~
		<u>2,136</u>	<u>2,628</u>	<u>2,952</u>	<u>3,276</u>	<u>3,408</u>
\$19,301 - \$22,300	--	--	444	888	984	~~1,080~~
		<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>	<u>3,000</u>
\$22,301 - \$25,300	--	--	--	444	888	984
		<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>	<u>2,676</u>
\$25,301 - \$30,300	--	--	--	--	444	888
		<u>816</u>	<u>1,092</u>	<u>1,368</u>	<u>1,866</u>	<u>2,358</u>
\$30,301 - \$35,300	--	--	--	--	--	444
		<u>492</u>	<u>540</u>	<u>672</u>	<u>816</u>	<u>1,314</u>

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution

Table of Grants

Maximum Grant \$4,632

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292
\$32,001 - \$33,000	852	906	1,134	1,416	1,854
\$33,001 - \$34,000	750	852	906	1,134	1,416
\$34,001 - \$35,000	372	750	852	906	1,134
\$35,001 - \$36,000	--	372	750	852	906
\$36,001 - \$37,000	--	--	372	750	852
\$37,001 - \$38,000	--	--	--	372	750
\$38,001 - \$39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Career Institution Table of Grants Maximum Grant \$4,632 Number of Dependents					
	0	1	2	3	4	5 or more
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632
\$5,301 - \$5,800	3,684	~~4,182~~ 4,410	4,632	4,632	4,632	4,632
\$5,801 - \$6,300	3,222	~~3,684~~ 4,158	~~4,182~~ 4,410	4,632	4,632	4,632
\$6,301 - \$6,800	2,790	~~3,222~~ 3,930	~~3,684~~ 4,158	~~4,182~~ 4,410	4,632	4,632
\$6,801 - \$7,300	2,292	~~2,790~~ 3,714	~~3,222~~ 3,930	~~3,684~~ 4,158	~~4,182~~ 4,410	4,632
\$7,301 - \$8,300	1,854	~~2,292~~ 3,462	~~2,790~~ 3,714	~~3,222~~ 3,930	~~3,684~~ 4,158	~~4,182~~ 4,410
\$8,301 - \$9,300	1,416	~~1,854~~ 3,246	~~2,292~~ 3,462	~~2,790~~ 3,714	~~3,222~~ 3,930	~~3,684~~ 4,158
\$9,301 - \$10,300	1,134	~~1,416~~ 3,024	~~1,854~~ 3,246	~~2,292~~ 3,462	~~2,790~~ 3,714	~~3,222~~ 3,930
\$10,301 - \$11,800	906	~~1,134~~ 2,886	~~1,416~~ 3,024	~~1,854~~ 3,246	~~2,292~~ 3,462	~~2,790~~ 3,714
\$11,801 - \$13,300	852	~~906~~ 2,772	~~1,134~~ 2,886	~~1,416~~ 3,024	~~1,854~~ 3,246	~~2,292~~ 3,462
\$13,301 - \$14,800	750	~~852~~ 2,742	~~906~~ 2,772	~~1,134~~ 2,886	~~1,416~~ 3,024	~~1,854~~ 3,246
\$14,801 - \$16,300	372	~~750~~ 2,466	~~852~~ 2,742	~~906~~ 2,772	~~1,134~~ 2,886	~~1,416~~ 3,024
\$16,301 - \$19,300	--	~~372~~ 1,800	~~750~~ 2,220	~~852~~ 2,520	~~906~~ 2,772	~~1,134~~ 2,886
\$19,301 - \$22,300	--	--	372	750	852	906

		<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>	<u>2,544</u>
\$22,301 - \$25,300	--	--	--	372	750	852
		<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>	<u>2,268</u>
\$25,301 - \$30,300	--	--	--	--	372	750
		<u>708</u>	<u>930</u>	<u>1,146</u>	<u>1,584</u>	<u>1,986</u>
\$30,301 - \$35,300	--	--	--	--	--	372
		<u>426</u>	<u>456</u>	<u>570</u>	<u>708</u>	<u>1,116</u>

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution

Table of Grants

Maximum Grant \$2,190

Number of Dependents

Gross Income	1	2	3	4	5 or more
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740
\$25,001 - \$28,000	648	864	1,080	1,320	1,542
\$28,001 - \$31,000	522	648	864	1,080	1,320
\$31,001 - \$32,000	420	522	648	864	1,080
\$32,001 - \$33,000	384	420	522	648	864
\$33,001 - \$34,000	354	384	420	522	648
\$34,001 - \$35,000	174	354	384	420	522
\$35,001 - \$36,000	--	174	354	384	420
\$36,001 - \$37,000	--	--	174	354	384
\$37,001 - \$38,000	--	--	--	174	354
\$38,001 - \$39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution

Table of Grants

Gross Income	Maximum Grant \$2,190 Number of Dependents					
	0	1	2	3	4	5 or more
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190
\$5,301 - \$5,800	1,740	~~1,974~~ <u>2,082</u>	2,190	2,190	2,190	2,190
\$5,801 - \$6,300	1,542	~~1,740~~ <u>1,968</u>	~~1,974~~ <u>2,082</u>	2,190	2,190	2,190
\$6,301 - \$6,800	1,320	~~1,542~~ <u>1,866</u>	~~1,740~~ <u>1,968</u>	~~1,974~~ <u>2,082</u>	2,190	2,190
\$6,801 - \$7,300	1,080	~~1,320~~ <u>1,758</u>	~~1,542~~ <u>1,866</u>	~~1,740~~ <u>1,968</u>	~~1,974~~ <u>2,082</u>	2,190
\$7,301 - \$8,300	864	~~1,080~~ <u>1,638</u>	~~1,320~~ <u>1,758</u>	~~1,542~~ <u>1,866</u>	~~1,740~~ <u>1,968</u>	~~1,974~~ <u>2,082</u>
\$8,301 - \$9,300	648	~~864~~ <u>1,530</u>	~~1,080~~ <u>1,638</u>	~~1,320~~ <u>1,758</u>	~~1,542~~ <u>1,866</u>	~~1,740~~ <u>1,968</u>
\$9,301 - \$10,300	522	~~648~~ <u>1,422</u>	~~864~~ <u>1,530</u>	~~1,080~~ <u>1,638</u>	~~1,320~~ <u>1,758</u>	~~1,542~~ <u>1,866</u>
\$10,301 - \$11,800	420	~~522~~ <u>1,356</u>	~~648~~ <u>1,422</u>	~~864~~ <u>1,530</u>	~~1,080~~ <u>1,638</u>	~~1,320~~ <u>1,758</u>
\$11,801 - \$13,300	384	~~420~~ <u>1,308</u>	~~522~~ <u>1,356</u>	~~648~~ <u>1,422</u>	~~864~~ <u>1,530</u>	~~1,080~~ <u>1,638</u>
\$13,301 - \$14,800	354	~~384~~ <u>1,290</u>	~~420~~ <u>1,308</u>	~~522~~ <u>1,356</u>	~~648~~ <u>1,422</u>	~~864~~ <u>1,530</u>
\$14,801 - \$16,300	174	~~354~~ <u>1,164</u>	~~384~~ <u>1,290</u>	~~420~~ <u>1,308</u>	~~522~~ <u>1,356</u>	~~648~~ <u>1,422</u>
\$16,301 - \$19,300	--	~~174~~ <u>858</u>	~~354~~ <u>1,050</u>	~~384~~ <u>1,182</u>	~~420~~ <u>1,308</u>	~~522~~ <u>1,356</u>
\$19,301 - \$22,300	--	-- <u>540</u>	~~174~~ <u>750</u>	~~354~~ <u>948</u>	~~384~~ <u>1,062</u>	~~420~~ <u>1,200</u>
\$22,301 - \$25,300	--	--	--	~~174~~ <u>354</u>	~~354~~ <u>384</u>	~~384~~ <u>384</u>

		<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>	<u>1,062</u>
\$25,301 -	--	--	--	--	~~174~~	~~354~~
\$30,300						
		<u>324</u>	<u>432</u>	<u>540</u>	<u>750</u>	<u>948</u>
\$30,301 -	--	--	--	--	--	~~174~~
\$35,300						
		<u>192</u>	<u>210</u>	<u>264</u>	<u>324</u>	<u>522</u>

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving instructional grants under this section shall report to the board all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.121. There is hereby established in the state treasury the instructional grant reconciliation fund, which shall consist of refunds of instructional grant payments made pursuant to section 3333.12 of the Revised Code. Revenues credited to the fund shall be used by the Ohio board of regents to pay to higher education institutions any outstanding obligations from the prior year owed for the Ohio instructional grant program that are identified through the annual reconciliation and financial audit. Any amount in the fund that is in excess of the amount certified to the director of budget and management by the board of regents as necessary to reconcile prior year payments under the program shall be transferred to the general revenue fund.

Sec. 3333.16. As used in this section "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(A) By April 15, 2005, the Ohio board of regents shall do all of the following:

(1) Establish policies and procedures applicable to all state institutions of higher education that ensure that students can begin higher education at any state institution of higher education and transfer coursework and degrees to any other state institution of higher education without unnecessary duplication or institutional barriers. The purpose of this requirement is to allow students to attain their highest educational aspirations in the most efficient and effective manner for the students and the state. These policies and procedures shall require state institutions of higher education to make changes or modifications, as needed, to strengthen course content so as to ensure equivalency for that course at any state institution of higher education.

(2) Develop and implement a universal course equivalency classification system for state institutions of higher education so that the transfer of students and the transfer and articulation of equivalent courses or specified learning modules or units completed by students are not inhibited by inconsistent judgment about the application of transfer credits. Coursework completed within such a system at one state institution of higher education and transferred to another institution shall be applied to the student's degree objective in the same manner as equivalent coursework completed at the receiving institution.

(3) Develop a system of transfer policies that ensure that graduates with associate degrees which include completion of approved transfer modules shall be admitted to a state institution of higher education, shall be able to compete for admission to specific programs on the same basis as students native to the institution, and shall have priority over out-of-state associate degree graduates and transfer students. To assist a student in advising and transferring, all state institutions of higher education shall fully implement the course applicability system.

(4) Examine the feasibility of developing a transfer marketing agenda that includes materials and interactive technology to inform the citizens of Ohio about the availability of transfer options at state institutions of higher education and to encourage adults to return to colleges and universities for additional education;

(5) Study, in consultation with the state board of career colleges and schools, and in light of existing criteria and any other criteria developed by the articulation and transfer advisory council, the feasibility of credit recognition and transferability to state institutions of higher education for graduates who have received associate degrees from a career college or school with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(B) By April 15, 2004, the board shall report to the general assembly on its progress in attaining completion of the actions prescribed in division (A) of this section.

(C) All provisions of the existing articulation and transfer policy developed by the board shall remain in effect except where amended by this act.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization by the

Ohio board of regents under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 5910.032, and 5919.34 of the Revised Code and any other post-secondary student financial assistance supported by state funds.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the individual applies for assistance of that nature:

(1) A violation of section 2917.02 or 2917.03 of the Revised Code;

(2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code;

(3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code.

(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2907.02 or 2907.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3353.11. There is hereby created in the state treasury the governmental television/telecommunications operating fund. The fund shall consist of money received from contract productions of the Ohio government telecommunications studio and shall be used for operations or equipment breakdowns related to the studio. Only Ohio government

telecommunications may authorize the spending of money in the fund. All investment earnings of the fund shall be credited to the fund. Once the fund has a balance of zero, the fund shall cease to exist.

Sec. 3361.01. (A) There is hereby created a state university to be known as the "university of Cincinnati." The government of the university of Cincinnati is vested in a board of eleven trustees who shall be appointed by the governor with the advice and consent of the senate. Two of the trustees shall be students at the university of Cincinnati, and their selection and terms shall be in accordance with division (B) of this section. The terms of the first nine members of the board of trustees shall commence upon the effective date of the transfer of assets of the state-affiliated university of Cincinnati to the university of Cincinnati hereby created. One of such trustees shall be appointed for a term ending on the first day of January occurring at least twelve months after such date of transfer, and each of the other trustees shall be appointed for respective terms ending on each succeeding first day of January, so that one term will expire on each first day of January after expiration of the shortest term. Except for the two student trustees, each successor trustee shall be appointed for a term ending on the first day of January, nine years from the expiration date of the term ~~he~~ the trustee succeeds, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term.

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

No person who has served a full nine-year term or longer or more than six years of such a term shall be eligible to reappointment. ~~No person is eligible for appointment to the board of trustees for a full nine-year term who is not at the time of appointment a resident of the city of Cincinnati, unless at the time of such appointment there are at least five members of the board who are not students and who are residents of the city of Cincinnati.~~

The trustees shall receive no compensation for their services but shall be paid their reasonable necessary expenses while engaged in the discharge of their official duties. A majority of the board constitutes a quorum.

(B) The student members of the board of trustees of the university of Cincinnati have no voting power on the board. Student members shall not be considered as members of the board in determining whether a quorum is present. Student members shall not be entitled to attend executive sessions of the board. The student members of the board shall be appointed by the governor, with the advice and consent of the senate, from a group of five candidates selected pursuant to a procedure adopted by the university's

student governments and approved by the university's board of trustees. The initial term of office of one of the student members shall commence on May 14, 1988 and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988 and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event that a student cannot fulfill ~~his~~ a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

Sec. 3375.41. When a board of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, and 3375.30 of the Revised Code determines to construct, demolish, alter, repair, or reconstruct a library or make any improvements or repairs, the cost of which will exceed ~~fifteen~~ twenty-five thousand dollars, except in cases of urgent necessity or for the security and protection of library property, it shall proceed as follows:

(A) The board shall advertise for a period of four weeks for bids in some newspaper of general circulation in the district, ~~and if there are two such papers, the board shall advertise in both of them. If no newspaper has a general circulation in the district, the board shall advertise by posting ~~such~~ the advertisement in three public places ~~therein in the district. ~~Such~~ The~~~~ The advertisement shall be entered in full by the clerk on the record of proceedings of the board.

(B) The sealed bids shall be filed with the clerk by twelve noon of the last day stated in the advertisement.

(C) The bids shall be opened at the next meeting of the board, shall be publicly read by the clerk, and shall be entered in full on the records of the board; provided, that the board ~~may~~, by resolution, may provide for the public opening and reading of ~~such~~ the bids by the clerk, immediately after the time for filing ~~such~~ the bids has expired, at the usual place of meeting of the board, and for the tabulation of ~~such~~ the bids and a report of ~~such~~ the tabulation to the board at its next meeting.

(D) Each bid shall contain the name of every person interested ~~therein, in it~~ and shall meet the requirements of section 153.54 of the Revised Code.

(E) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the bid, with the price ~~thereof of each~~, or may require that bids be submitted without ~~such~~ that separation.

(F) None but the lowest responsible bid shall be accepted. The board may reject all the bids or accept any bid for both labor and material for ~~such~~

the improvement or repair which is the lowest in the aggregate.

(G) The contract shall be between the board and the bidders. The board shall pay the contract price for the work in cash at the times and in the amounts as provided by sections 153.12, 153.13, and 153.14 of the Revised Code.

(H) When two or more bids are equal, in whole or in part, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders.

(I) When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in ~~such~~ the collusion or combination shall be rejected.

Sec. 3377.01. As used in Chapter 3377. of the Revised Code:

(A) "Educational institution" or "institution" means an educational institution organized not for profit and holding an effective certificate of authorization issued under section 1713.02 of the Revised Code. It does not include any institution created by or in accordance with Title XXXIII of the Revised Code nor any institution whose principal educational activity is preparing students for or granting degrees, diplomas, and other marks of deficiency which have value only in religious and ecclesiastical fields.

(B) "Educational facility" or "facility" means any building, structure, facility, equipment, machinery, utility, or improvement, site, or other interest in real estate therefor or pertinent thereto, and equipment and furnishings to be used therein or in connection therewith, together with any appurtenances necessary or convenient to the uses thereof, to be used for or in connection with the conduct or operation of an educational institution, including but not limited to, classrooms and other instructional facilities, laboratories, research facilities, libraries, study facilities, administrative and office facilities, museums, gymnasiums, campus walks, drives and site improvements, dormitories and other suitable living quarters or accommodations, dining halls and other food service and preparation facilities, student services or activity facilities, physical education, athletic and recreational facilities, theatres, auditoriums, assembly and exhibition halls, greenhouses, agricultural buildings and facilities, parking, storage and maintenance facilities, infirmary, hospital, medical, and health facilities, continuing education facilities, communications, fire prevention, and fire fighting facilities, and any one, or any combination of the foregoing, whether or not comprising part of one building, structure, or facility. It does not include any facility used ~~for sectarian instruction or study or exclusively~~ as a place for devotional activities ~~or religious worship~~.

(C) "Bond proceedings" means the resolution or resolutions, the trust

agreement, the indenture of mortgage, or combination thereof authorizing or providing for the terms and conditions applicable to bonds issued under authority of Chapter 3377. of the Revised Code.

(D) "Pledged facilities" means the project or other property that is mortgaged or the rentals, revenues, and other income, charges, and moneys from which are pledged, or both, for the payment of or the security for the payment of the principal of and interest on the bonds issued under the authority of section 3377.05 or 3377.06 of the Revised Code.

(E) "Project" means real or personal property, or both, acquired by gift or purchase, constructed, reconstructed, enlarged, remodeled, renovated, improved, furnished, or equipped, or any combination thereof, by or financed by the Ohio higher educational facility commission, or by funds that are refinanced or reimbursed by the commission for use by an educational institution as an educational facility located within the state.

(F) "Project costs" means the costs of acquiring, constructing, equipping, furnishing, reconstructing, remodeling, renovating, enlarging, and improving educational facilities comprising one or more project, including costs connected with or incidental thereto, provision of capitalized interest prior to and during construction and for a period after the completion of the construction, appropriate reserves, architectural, engineering, financial, and legal services, and all other costs of financing, and the repayment or restoration of moneys borrowed or advanced for such purposes or temporarily used therefor from other sources, and means the costs of refinancing obligations issued or loans incurred by, or reimbursement of money advanced, invested or expended by, educational institutions or others the proceeds of which obligations or loans or the amounts advanced, invested or expended were used at any time for the payment of project costs, if the Ohio higher educational facility commission determines that the refinancing or reimbursement advances the purposes of this chapter, whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional educational facilities.

Sec. 3377.06. In anticipation of the issuance of bonds authorized by section 3377.05 of the Revised Code, the Ohio higher educational facility commission may issue bond anticipation notes of the state and may renew the same from time to time by the issuance of new notes, but the maximum maturity of such notes, including renewals thereof, shall not exceed five years from the date of the issuance of the original notes. Such notes are payable solely from the revenues and receipts that may be pledged to the payment of such bonds or from the proceeds of such bonds, or both, as the

commission provides in its resolution authorizing such notes, and may be additionally secured by covenants of the commission to the effect that the commission will do such or all things necessary for the issuance of such bonds, or of renewal notes under this section in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary to make full payment on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this section, all provisions for and references to bonds in Chapter 3377. of the Revised Code are applicable to notes authorized under this section and any references therein to bondholders shall include holders or owners of such notes.

Prior to the sale of bonds or notes authorized under section 3377.05 or 3377.06 of the Revised Code, the commission shall determine that the project to be financed thereby will contribute to the objectives stated in section 3377.02 of the Revised Code and that the educational institution to which such project is to be leased, sold, exchanged, or otherwise disposed of, admits students without discrimination by reason of race, creed, color, or national origin. Nothing in this section prohibits an educational institution from requesting that its applicants for admission demonstrate beliefs or principles consistent with the mission of the institution.

Sec. 3379.11. There is hereby created in the state treasury the gifts and donations fund. The fund shall consist of gifts and donations made to the Ohio arts council and fees paid for conferences the council sponsors. The fund shall be used to pay for the council's operating expenses, including, but not limited to, payroll, personal services, maintenance, equipment, and subsidy payments. All moneys deposited into the fund shall be received and expended pursuant to the council's duty to foster and encourage the development of the arts in this state and the preservation of the state's cultural heritage.

Sec. 3383.01. As used in this chapter:

(A) "Arts" means any of the following:

(1) Visual, musical, dramatic, graphic, design, and other arts, including, but not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater, and the provision of training or education in these arts;

(2) The presentation or making available, in museums or other indoor or outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts described in division (A)(1) of this section and of transportation;

(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility or a local historical facility.

(B) "Arts organization" means either of the following:

(1) A governmental agency or Ohio nonprofit corporation that provides programs or activities in areas directly concerned with the arts;

(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.

(C) "Arts project" means all or any portion of an Ohio arts facility for which the general assembly has specifically authorized the spending of money, or made an appropriation, pursuant to division (D)(3) or (E) of section 3383.07 of the Revised Code.

(D) "Cooperative contract" means a contract between the Ohio arts and sports facilities commission and an arts organization providing the terms and conditions of the cooperative use of an Ohio arts facility.

(E) "Costs of operation" means amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that both of the following apply:

(1) Those amounts either:

(a) Have been committed to a fund dedicated to that purpose;

(b) Equal the principal of any endowment fund, the income from which is dedicated to that purpose.

(2) The commission and the arts organization have executed an agreement with respect to either of those funds.

(F) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(G) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, any other political subdivision or special district in this state established by or pursuant to law, or any combination of these entities; except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.

(H) "Local contributions" means the value of an asset provided by or on behalf of an arts organization from sources other than the state, the value

and nature of which shall be approved by the Ohio arts and sports facilities commission, in its sole discretion. "Local contributions" may include the value of the site where an arts project is to be constructed. All "local contributions," except a contribution attributable to such a site, shall be for the costs of construction of an arts project or the costs of operation of an arts facility.

(I) "Local historical facility" means a site or facility, other than a state historical facility, of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by an arts organization, provided the facility meets the requirements of division (K)(2)(b) of this section, is managed by or pursuant to a contract with the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public.

(J) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to the arts for an Ohio arts facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the arts activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

(K) "Ohio arts facility" means any of the following:

(1) The three theaters located in the state office tower at 77 South High street in Columbus;

(2) Any capital facility in this state to which both of the following apply:

(a) The construction of an arts project related to the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code and proceeds of state bonds are used for costs of the arts project.

(b) The facility is managed directly by, or is subject to a cooperative or management contract with, the Ohio arts and sports facilities commission, and is used for or in connection with the activities of the commission,

including the presentation or making available of arts to the public and the provision of training or education in the arts. ~~A cooperative or management contract shall be for a term not less than the time remaining to the date of payment or provision for payment of any state bonds issued to pay the costs of the arts project, as determined by the director of budget and management and certified by the director to the Ohio arts and sports facilities commission and to the Ohio building authority.~~

(3) A state historical facility or a local historical facility.

(L) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies.

(M) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements, and related equipping and furnishing.

(N) "State historical facility" means a site or facility of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by an arts organization, so long as the real property of the arts organization is contiguous to state-owned real property that is in the care, custody, and control of an arts organization, and that is managed directly by or is subject to a cooperative or management contract with the Ohio arts and sports facilities commission and is used for or in connection with the activities of the commission, including the presentation or making available of arts to the public.

(O) "Ohio sports facility" means all or a portion of a stadium, arena, or other capital facility in this state, a primary purpose of which is to provide a site or venue for the presentation to the public of events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of the state, which facility is owned by or is located on real property owned by the state or a governmental agency, and including all parking facilities, walkways, and other auxiliary facilities, equipment, furnishings, and real and personal property and interests and rights therein, that may be appropriate for or used for or in connection with the facility or its operation, for capital costs of which state funds are spent pursuant to this chapter. A facility constructed as an Ohio sports facility may be both an Ohio arts facility and an Ohio sports facility.

Sec. 3383.07. (A) The department of administrative services shall

provide for the construction of an arts project in conformity with Chapter 153. of the Revised Code, except as follows:

(1) For an arts project that has an estimated construction cost, excluding the cost of acquisition, of twenty-five million dollars or more, and that is financed by the Ohio building authority, construction services may be provided by the authority if the authority determines it should provide those services.

(2) For an arts project other than a state historical facility, construction services may be provided on behalf of the state by the Ohio arts and sports facilities commission, or by a governmental agency or an arts organization that occupies, will occupy, or is responsible for the Ohio arts facility, as determined by the commission. Construction services to be provided by a governmental agency or an arts organization shall be specified in an agreement between the commission and the governmental agency or arts organization. The agreement, or any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.151 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(3) For an arts project that is a state historical facility, construction services may be provided by the Ohio arts and sports facilities commission or by an arts organization that occupies, will occupy, or is responsible for the facility, as determined by the commission. The construction services to be provided by the arts organization shall be specified in an agreement between the commission and the arts organization. That agreement, and any actions taken under it, are not subject to Chapter 123., 153., or 4115. of the Revised Code.

(B) For an Ohio sports facility that is financed in part by the Ohio building authority, construction services shall be provided on behalf of the state by or at the direction of the governmental agency or nonprofit corporation that will own or be responsible for the management of the facility, all as determined by the Ohio arts and sports facilities commission. Any construction services to be provided by a governmental agency or nonprofit corporation shall be specified in an agreement between the commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.151 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(C) General building services for an Ohio arts facility shall be provided by the Ohio arts and sports facilities commission or by an arts organization that occupies, will occupy, or is responsible for the facility, as determined

by the commission, except that the Ohio building authority may elect to provide those services for Ohio arts facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the arts organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the commission and the arts organization, except that the state may pay for general building services for state-owned arts facilities constructed on state-owned land.

General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the commission. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be specified in an agreement between the commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.151 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(D) This division does not apply to a state historical facility. No state funds, including any state bond proceeds, shall be spent on the construction of any arts project under this chapter unless, with respect to the arts project and to the Ohio arts facility related to the project, all of the following apply:

(1) The Ohio arts and sports facilities commission has determined that there is a need for the arts project and the Ohio arts facility related to the project in the region of the state in which the Ohio arts facility is located or for which the facility is proposed.

(2) The commission has determined that, as an indication of substantial regional support for the arts project, the arts organization has made provision satisfactory to the commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the arts project.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the arts project, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, construction of the arts project.

(E) No state funds, including any state bond proceeds, shall be spent on the construction of any state historical facility under this chapter unless the general assembly has specifically authorized the spending of money on, or

made an appropriation for, the construction of the arts project related to the facility, or for rental payments relating to the financing of the construction of the arts project. Authorization to spend money, or an appropriation, for planning the arts project does not constitute authorization to spend money on, or an appropriation for, the construction of the arts project.

(F) State funds shall not be used to pay or reimburse more than fifteen per cent of the initial estimated construction cost of an Ohio sports facility, excluding any site acquisition cost, and no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility under this chapter unless, with respect to that facility, all of the following apply:

(1) The Ohio arts and sports facilities commission has determined that there is a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter.

(2) As an indication of substantial local support for the facility, the commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(4) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility; ~~extending for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of those bonds as determined using the guidelines for maximum maturities as provided under divisions (B), (C), and (D) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the~~

~~Ohio arts and sports facilities commission and to the Ohio building authority.~~

Sec. 3501.011. (A) Except as otherwise provided in divisions (B) and (C) of this section, and except as otherwise provided in any section of Title XXXV of the Revised Code to the contrary, as used in the sections of the Revised Code relating to elections and political communications, whenever a person is required to sign or affix a signature to a declaration of candidacy, nominating petition, declaration of intent to be a write-in candidate, initiative petition, referendum petition, recall petition, or any other kind of petition, or to sign or affix a signature on any other document that is filed with or transmitted to a board of elections or the office of the secretary of state, "sign" or "signature" means that person's written, cursive-style legal mark written in that person's own hand.

(B) For persons who do not use a cursive-style legal mark during the course of their regular business and legal affairs, "sign" or "signature" means that person's other legal mark that the person uses during the course of that person's regular business and legal affairs that is written in the person's own hand.

(C) Any voter registration record requiring a person's signature shall be signed using the person's legal mark used in the person's regular business and legal affairs. For any purpose described in division (A) of this section, the legal mark of a registered elector shall be considered to be the mark of that elector as it appears on the elector's voter registration record.

Sec. 3501.18. (A) The board of elections may divide a political subdivision; within its jurisdiction; into precincts ~~and~~, establish, define, divide, rearrange, and combine the several election precincts within its jurisdiction, and change the location of the polling place for each precinct when it is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections; ~~provided that no~~. No change in the number of precincts or in precinct boundaries shall be made during the twenty-five days immediately preceding a primary or general election ~~nor~~ or between the first day of January and the day on which the members of county central committees are elected in the years in which those committees are elected. Except as otherwise provided in division (C) of this section, each precinct shall contain a number of electors, not to exceed one thousand four hundred, that the board of elections determines to be a reasonable number after taking into consideration the type and amount of available equipment, prior voter turnout, the size and location of each selected polling place, available parking, availability of an adequate number of poll workers, and handicap

accessibility and other accessibility to the polling place.

If the board changes the boundaries of a precinct after the filing of a local option election petition pursuant to sections 4301.32 to 4301.41, 4303.29, or 4305.14 of the Revised Code that calls for a local option election to be held in that precinct, the local option election shall be held in the area that constituted the precinct at the time the local option petition was filed, regardless of the change in the boundaries.

If the board changes the boundaries of a precinct in order to meet the requirements of division (B)(1) of this section in a manner that causes a member of a county central committee to no longer qualify as a representative of an election precinct in the county, of a ward of a city in the county, or of a township in the county, the member shall continue to represent the precinct, ward, or township for the remainder of the member's term, regardless of the change in boundaries.

In an emergency, the board may provide more than one polling place in a precinct. In order to provide for the convenience of the voters, the board may locate polling places for voting or registration outside the boundaries of precincts, provided that the nearest public school or public building shall be used if the board determines it to be available and suitable for use as a polling place. Except in an emergency, no change in the number or location of the polling places in a precinct shall be made during the twenty-five days immediately preceding a primary or general election.

Electors who have failed to respond within thirty days to any confirmation notice shall not be counted in determining the size of any precinct under this section.

(B)(1) Except as otherwise provided in division (B)(2) ~~or (3)~~ of this section, ~~not later than August 1, 2000, the~~ a board of elections shall determine all precinct boundaries using geographical units used by the United States department of commerce, bureau of the census, in reporting the decennial census of Ohio.

~~(2) When any part of the boundary of a precinct also forms a part of the boundary of a legislative district and the precinct boundary cannot be determined by August 1, 2000, using the geographical units described in division (B)(1) of this section without making that part of the precinct boundary that also forms part of the legislative district boundary different from that legislative district boundary, the board of elections may determine the boundary of that precinct using the geographical units described in division (B)(1) of this section not later than April 1, 2002. As used in this division, legislative district means a district determined under Article XI of the Ohio Constitution.~~

(3) The board of elections may apply to the secretary of state for a waiver from the requirement of division (B)(1) of this section when it is not feasible to comply with that requirement because of unusual physical boundaries or residential development practices that would cause unusual hardship for voters. The board shall identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where the census units will be split because of the requested waiver. If the secretary of state approves the waiver and so notifies the board of elections in writing, the board may change a precinct boundary as necessary under this section, notwithstanding the requirement in division (B)(1) of this section.

(C) The board of elections may apply to the secretary of state for a waiver from the requirement of division (A) of this section regarding the number of electors in a precinct when the use of geographical units used by the United States department of commerce, bureau of the census, will cause a precinct to contain more than one thousand four hundred electors. The board shall identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where census units will be split because of the requested waiver. If the secretary of state approves the waiver and so notifies the board of elections in writing, the board may change a precinct boundary as necessary to meet the requirements of division (B)(1) of this section.

Sec. 3501.30. (A) The board of elections shall provide for each polling place the necessary ballot boxes, official ballots, cards of instructions, registration forms, pollbooks, or poll lists, tally sheets, forms on which to make summary statements, writing implements, paper, and all other supplies necessary for casting and counting the ballots and recording the results of the voting at ~~such the~~ polling place. ~~Such The~~ pollbooks or poll lists shall have certificates appropriately printed ~~thereon on them~~ for the signatures of all the precinct officials, by which they shall certify that, to the best of their knowledge and belief, ~~said the~~ pollbooks or poll lists correctly show the names of all electors who voted in ~~such the~~ polling place at the election indicated ~~therein in the~~ pollbook or poll list.

~~A~~ All of the following shall be included among the supplies provided to each polling place:

(1) ~~A~~ A large map of each appropriate precinct shall be included among the supplies to each polling place, which shall be displayed prominently to assist persons who desire to register or vote on election day. Each map shall show all streets within the precinct and contain identifying symbols of the precinct in bold print.

~~Such supplies shall also include a~~ (2) Any materials, postings, or instructions required to comply with state or federal laws;

(3) A flag of the United States approximately two and one-half feet in length along the top, which shall be displayed outside the entrance to the polling place during the time it is open for voting. ~~Two;~~

(4) Two or more small flags of the United States approximately fifteen inches in length along the top ~~shall be provided and, which~~ shall be placed at a distance of one hundred feet from the polling place on the thoroughfares or walkways leading to the polling place, to mark the distance within which persons other than election officials, witnesses, challengers, police officers, and electors waiting to mark, marking, or casting their ballots shall not loiter, congregate, or engage in any kind of election campaigning. Where small flags cannot reasonably be placed one hundred feet from the polling place, the presiding election judge shall place the flags as near to one hundred feet from the entrance to the polling place as is physically possible. Police officers and all election officials shall see that this prohibition against loitering and congregating is enforced. ~~When~~

When the period of time during which the polling place is open for voting expires, all of ~~said the~~ flags described in this division shall be taken into the polling place, and shall be returned to the board together with all other election ~~materials and~~ supplies required to be delivered to ~~such the~~ board.

(B) The board of elections shall follow the instructions and advisories of the secretary of state in the production and use of polling place supplies.

Sec. 3503.10. (A) Each designated agency shall designate one person within that agency to serve as coordinator for the voter registration program within the agency and its departments, divisions, and programs. The designated person shall be trained under a program designed by the secretary of state and shall be responsible for administering all aspects of the voter registration program for that agency as prescribed by the secretary of state. The designated person shall receive no additional compensation for performing such duties.

(B) Every designated agency, public high school and vocational school, public library, and office of a county treasurer shall provide in each of its offices or locations voter registration applications and assistance in the registration of persons qualified to register to vote, in accordance with this chapter.

(C) Every designated agency shall distribute to its applicants, prior to or in conjunction with distributing a voter registration application, a form prescribed by the secretary of state that includes all of the following:

(1) The question, "Do you want to register to vote or update your current voter registration?"--followed by boxes for the applicant to indicate whether the applicant would like to register or decline to register to vote, and the statement, highlighted in bold print, "If you do not check either box, you will be considered to have decided not to register to vote at this time.";

(2) If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(3) The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.";

(4) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the prosecuting attorney of your county or with the secretary of state," with the address and telephone number for each such official's office.

(D) Each designated agency shall distribute a voter registration form prescribed by the secretary of state to each applicant with each application for service or assistance, and with each written application or form for recertification, renewal, or change of address.

(E) Each designated agency shall do all of the following:

(1) Have employees trained to administer the voter registration program in order to provide to each applicant who wishes to register to vote and who accepts assistance, the same degree of assistance with regard to completion of the voter registration application as is provided by the agency with regard to the completion of its own form;

(2) Accept completed voter registration applications, voter registration change of residence forms, and voter registration change of name forms, regardless of whether the application or form was distributed by the designated agency, for transmittal to the office of the board of elections in the county in which the agency is located. Each designated agency and the appropriate board of elections shall establish a method by which the voter registration applications and other voter registration forms are transmitted to that board of elections within five days after being accepted by the agency.

(3) If the designated agency is one that is primarily engaged in providing services to persons with disabilities under a state-funded program, and that agency provides services to a person with disabilities at a person's

home, provide the services described in divisions (E)(1) and (2) of this section at the person's home;

(4) Keep as confidential, except as required by the secretary of state for record-keeping purposes, the identity of an agency through which a person registered to vote or updated the person's voter registration records, and information relating to a declination to register to vote made in connection with a voter registration application issued by a designated agency.

(F) The secretary of state shall prepare and transmit written instructions on the implementation of the voter registration program within each designated agency, public high school and vocational school, public library, and office of a county treasurer. The instructions shall include directions as follows:

(1) That each person designated to assist with voter registration maintain strict neutrality with respect to a person's political philosophies, a person's right to register or decline to register, and any other matter that may influence a person's decision to register or not register to vote;

(2) That each person designated to assist with voter registration not seek to influence a person's decision to register or not register to vote, not display or demonstrate any political preference or party allegiance, and not make any statement to a person or take any action the purpose or effect of which is to lead a person to believe that a decision to register or not register has any bearing on the availability of services or benefits offered, on the grade in a particular class in school, or on credit for a particular class in school;

(3) Regarding when and how to assist a person in completing the voter registration application, what to do with the completed voter registration application or voter registration update form, and when the application must be transmitted to the appropriate board of elections;

(4) Regarding what records must be kept by the agency and where and when those records should be transmitted to satisfy reporting requirements imposed on the secretary of state under the National Voter Registration Act of 1993;

(5) Regarding whom to contact to obtain answers to questions about voter registration forms and procedures.

(G) If the voter registration activity is part of an in-class voter registration program in a public high school or vocational school, whether prescribed by the secretary of state or independent of the secretary of state, the board of education shall do all of the following:

(1) Establish a schedule of school days and hours during these days when the person designated to assist with voter registration shall provide voter registration assistance;

(2) Designate a person to assist with voter registration from the public high school's or vocational school's staff;

(3) Make voter registration applications and materials available, as outlined in the voter registration program established by the secretary of state pursuant to section 3501.05 of the Revised Code;

(4) Distribute the statement, "applying to register or declining to register to vote will not affect or be a condition of your receiving a particular grade in or credit for a school course or class, participating in a curricular or extracurricular activity, receiving a benefit or privilege, or participating in a program or activity otherwise available to pupils enrolled in this school district's schools.";

(5) Establish a method by which the voter registration application and other voter registration forms are transmitted to the board of elections within five days after being accepted by the public high school or vocational school.

(H) Any person employed by the designated agency, public high school or vocational school, public library, or office of a county treasurer may be designated to assist with voter registration pursuant to this section. The designated agency, public high school or vocational school, public library, or office of a county treasurer shall provide the designated person, and make available such space as may be necessary, without charge to the county or state.

(I) The secretary of state shall prepare and cause to be displayed in a prominent location in each designated agency a notice that identifies the person designated to assist with voter registration, the nature of that person's duties, and where and when that person is available for assisting in the registration of voters.

A designated agency may furnish additional supplies and services to disseminate information to increase public awareness of the existence of a person designated to assist with voter registration in every designated agency.

(J) This section does not limit any authority a board of education, superintendent, or principal has to allow, sponsor, or promote voluntary election registration programs within a high school or vocational school, including programs in which pupils serve as persons designated to assist with voter registration, provided that no pupil is required to participate.

(K) Each public library and office of the county treasurer shall establish a method by which voter registration forms are transmitted to the board of elections within five days after being accepted by the public library or office of the county treasurer.

(L) The department of job and family services and its departments, divisions, and programs shall limit administration of the aspects of the voter registration program for the department to the requirements prescribed by the secretary of state and the requirements of this section and the National Voter Registration Act of 1993.

Sec. 3505.01. On the sixtieth day before the day of the next general election, the secretary of state shall certify to the board of elections of each county the forms of the official ballots to be used at ~~such~~ that general election, together with the names of the candidates to be printed ~~thereon on those ballots~~ whose candidacy is to be submitted to the electors of the entire state. In the case of the presidential ballot for a general election ~~such, that~~ certification shall be made on the ~~sixtieth~~ fifty-fifth day before the day of the general election. On the seventy-fifth day before a special election to be held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, the secretary of state shall certify to the board of elections of each county the forms of the official ballots to be used at ~~such~~ that election.

The board of the most populous county in each district comprised of more than one county but less than all of the counties of the state, in which there are candidates whose candidacies are to be submitted to the electors of ~~such~~ that district, shall, on the sixtieth day before the day of the next general election, certify to the board of each county in ~~such~~ the district the names of ~~such~~ those candidates to be printed on such ballots.

The board of a county in which the major portion of a subdivision, located in more than one county, is located shall, on the sixtieth day before the day of the next general election, certify to the board of each county in which other portions of ~~such subdivisions~~ that subdivision are located the names of candidates whose candidacies are to be submitted to the electors of ~~such~~ that subdivision, to be printed on such ballots.

If, subsequently to the sixtieth day before, or in the case of a presidential ballot for a general election the fifty-fifth day before, and prior to the tenth day before the day of ~~such~~ a general election, a certificate is filed with the secretary of state to fill a vacancy caused by the death of a candidate, the secretary of state shall forthwith make a supplemental certification to the board of each county amending and correcting ~~his~~ the secretary of state's original certification provided for in the first paragraph of this section. If, within ~~such~~ that time, such a certificate is filed with the board of the most populous county in a district comprised of more than one county but less

than all of the counties of the state, or with the board of a county in which the major portion of the population of a subdivision, located in more than one county, is located, ~~such~~ the board with which ~~such a~~ the certificate is filed shall forthwith make a supplemental certification to the board of each county in ~~such~~ the district or to the board of each county in which other portions of ~~such~~ the subdivision are located, amending and correcting its original certification provided for in the second and third paragraphs of this section. If, at the time such supplemental certification is received by a board, ballots carrying the name of the deceased candidate have been printed, ~~such~~ the board shall cause strips of paper bearing the name of the candidate certified to fill ~~such~~ the vacancy to be printed and pasted on ~~such~~ those ballots so as to cover the name of the deceased candidate, except that in voting places using marking devices, the board shall cause strips of paper bearing the revised list of candidates for the office, after certification of a candidate to fill ~~such~~ the vacancy, to be printed and pasted on ~~such~~ the ballot ~~card~~ cards so as to cover the names of candidates shown prior to the new certification, before such ballots are delivered to electors.

Sec. 3505.061. (A) The Ohio ballot board, as authorized by Section 1 of Article XVI, Ohio Constitution, shall consist of the secretary of state and four appointed members. No more than two of the appointed members shall be of the same political party. One of the members shall be appointed by the president of the senate, one shall be appointed by the minority leader of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the minority leader of the house of representatives. The appointments shall be made no later than the last Monday in January in the year in which the appointments are to be made. If any appointment is not so made, the secretary of state, acting in place of the person otherwise required to make the appointment, shall appoint as many qualified members affiliated with the appropriate political party as are necessary.

(B)(1) The initial appointees to the board shall serve until the first Monday in February, 1977. Thereafter, terms of office shall be for four years, each term ending on the first Monday in February. The term of the secretary of state on the board shall coincide with the secretary of state's term of office. Except as otherwise provided in division (B)(2) of this section, division (B)(2) of section 3505.063, and division (B)(2) of section 3519.03 of the Revised Code, each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Except as otherwise provided in those divisions, any member appointed to fill a vacancy occurring prior to the expiration of the term for

which the member's predecessor was appointed shall hold office for the remainder of that term. Except as otherwise provided in those divisions, any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or a period of sixty days has elapsed, whichever occurs first. Any vacancy occurring on the board shall be filled in the manner provided for original appointments. A member appointed to fill a vacancy shall be of the same political party as that required of the member whom the member replaces.

(2) The term of office of a member of the board who also is a member of the general assembly and who was appointed to the board by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, or the minority leader of the house of representatives shall end on the earlier of the following dates:

(a) The ending date of the ballot board term for which the member was appointed;

(b) The ending date of the member's term as a member of the general assembly.

(C) Members of the board shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties.

(D) The secretary of state shall be the chairperson of the board, and the secretary of state or the secretary of state's representative shall have a vote equal to that of any other member. The vice-chairperson shall act as chairperson in the absence or disability of the chairperson, or during a vacancy in that office. The board shall meet after notice of at least seven days at a time and place determined by the chairperson. At its first meeting, the board shall elect a vice-chairperson from among its members for a term of two years, and it shall adopt rules for its procedures. After the first meeting, the board shall meet at the call of the chairperson or upon the written request of three other members. Three members constitute a quorum. No action shall be taken without the concurrence of three members.

(E) The secretary of state shall provide technical, professional, and clerical employees as necessary for the board to carry out its duties.

Sec. 3505.08. (A) Ballots shall be provided by the board of elections for all general and special elections. ~~Such~~ The ballots shall be printed with black ink on No. 2 white book paper fifty pounds in weight per ream assuming such ream to consist of five hundred sheets of such paper twenty-five by thirty-eight inches in size. Each ballot shall have attached at the top two stubs, each of the width of the ballot and not less than one-half inch in length, except that, if the board of elections has an alternate method

to account for the ballots that the secretary of state has authorized, each ballot may have only one stub that shall be the width of the ballot and not less than one-half inch in length. In the case of ballots with two stubs, the stubs shall be separated from the ballot and from each other by perforated lines. The top stub shall be known as Stub B and shall have printed on its face "Stub B." The other stub shall be known as Stub A and shall have printed on its face "Stub A." Each stub shall also have printed on its face "Consecutive Number" ~~Each~~

Each ballot of each kind of ballot provided for use in each precinct shall be numbered consecutively beginning with number 1 by printing such number upon both of the stubs attached ~~thereto to the ballot~~. On ballots bearing the names of candidates, each candidate's name shall be printed in twelve point boldface upper case type in an enclosed rectangular space, and an enclosed blank rectangular space shall be provided at the left ~~thereof of the candidate's name~~. The name of the political party of a candidate nominated at a primary election or certified by a party committee shall be printed in ten point lightface upper and lower case type and shall be separated by a two point blank space. The name of each candidate shall be indented one space within ~~such the enclosed~~ rectangular space, and the name of the political party shall be indented two spaces within ~~such the enclosed~~ rectangular space. ~~The~~

The title of each office on ~~such the~~ ballots shall be printed in twelve point boldface upper and lower case type in a separate enclosed rectangular space. A four point rule shall separate the name of a candidate or a group of candidates for the same office from the title of the office next appearing below on the ballot, ~~and~~; a two point rule shall separate the title of the office from the names of candidates; and a one point rule shall separate names of candidates. Headings shall be printed in display Roman type. When the names of several candidates are grouped together as candidates for the same office, there shall be printed on ~~such the~~ ballots immediately below the title of ~~such the~~ office and within the separate rectangular space in which ~~such the~~ title is printed "Vote for not more than", in six point boldface upper and lower case filling the blank space with that number which will indicate the number of persons who may be lawfully elected to ~~such the~~ office.

Columns on ballots shall be separated from each other by a heavy vertical border or solid line at least one-eighth of an inch wide, and a similar vertical border or line shall enclose the left and right side of ballots, ~~and ballots~~. Ballots shall be trimmed along the sides close to such lines.

The ballots provided for by this section shall be comprised of four kinds of ballots designated as follows: (A) office type ballot; (B) nonpartisan

ballot; ~~(C)~~ questions and issues ballot; ~~(D)~~ and presidential ballot.

On the back of each office type ballot shall be printed "Official Office Type Ballot;" on the back of each nonpartisan ballot shall be printed "Official Nonpartisan Ballot;" on the back of each questions and issues ballot shall be printed "Official Questions and Issues Ballot;" and on the back of each presidential ballot shall be printed "Official Presidential Ballot." On the back of every ballot also shall be printed the date of the election at which the ballot is used and the facsimile signatures of the members of the board of the county in which the ballot is used. For the purpose of identifying the kind of ballot, the back of every ballot may be numbered in ~~such the~~ order as the board shall determine. ~~Such The~~ numbers shall be printed in not less than thirty-six point type above the words "Official Office Type Ballot," "Official Nonpartisan Ballot," "Official Questions and Issues Ballot," or "Official Presidential Ballot," as the case may be. Ballot boxes bearing corresponding numbers shall be furnished for each precinct in which the above-described numbered ballots are used.

On the back of every ballot used, there shall be a solid black line printed opposite the blank rectangular space that is used to mark the choice of the voter. This line shall be printed wide enough so that the mark in the blank rectangular space will not be visible from the back side of the ballot.

Sample ballots may be printed by the board of elections for all general elections. ~~Such The~~ ballots shall be printed on colored paper, and "Sample Ballot" shall be plainly printed in boldface type on the face of each ballot. In counties of less than one hundred thousand population, the board may print not more than five hundred sample ballots; in all other counties, it may print not more than one thousand sample ballots. ~~Such The~~ sample ballots shall not be distributed by a political party or a candidate, nor shall a political party or candidate cause their title or name to be imprinted ~~thereon~~ on sample ballots.

(B) Notwithstanding division (A) of this section, in approving the form of an official ballot, the secretary of state may authorize the use of fonts, type face settings, and ballot formats other than those prescribed in that division.

Sec. 3505.10. (A) On the presidential ballot below the stubs at the top of the face of the ballot shall be printed "Official Presidential Ballot" centered between the side edges of the ballot. Below "Official Presidential Ballot" shall be printed a heavy line centered between the side edges of the ballot. Below the line shall be printed "Instruction to Voters" centered between the side edges of the ballot, and below ~~such those~~ words shall be printed the following instructions:

~~"(A)(1)~~ (1) To vote for the candidates for president and vice-president whose names are printed below, record your vote in the manner provided next to the names of such candidates. That recording of the vote will be counted as a vote for each of the candidates for presidential elector whose names have been certified to the secretary of state and who are members of the same political party as the nominees for president and vice-president. A recording of the vote for independent candidates for president and vice-president shall be counted as a vote for the presidential electors filed by such candidates with the secretary of state.

~~(B)(2)~~ (2) To vote for candidates for president and vice-president in the blank space below, record your vote in the manner provided and write the names of your choice for president and vice-president under the respective headings provided for those offices. Such write-in will be counted as a vote for the candidates' presidential electors whose names have been properly certified to the secretary of state.

~~(C)(3)~~ (3) If you tear, soil, deface, or erroneously mark this ballot, return it to the precinct election officers or, if you cannot return it, notify the precinct election officers, and obtain another ballot."

(B) Below ~~such~~ those instructions to the voter shall be printed a single vertical column of enclosed rectangular spaces equal in number to the number of presidential candidates plus one additional space for write-in candidates. Each of ~~such~~ those rectangular spaces shall be enclosed by a heavy line along each of its four sides, and such spaces shall be separated from each other by one-half inch of open space.

In each of ~~such~~ those enclosed rectangular spaces, except the space provided for write-in candidates, shall be printed the names of the candidates for president and vice-president certified to the secretary of state or nominated as such in one of the following manners:

(1) Nominated by the national convention of a political party to which delegates and alternates were elected in this state at the next preceding primary election ~~and the names of those independent candidates nominated.~~ A political party certifying candidates so nominated shall certify the names of those candidates to the secretary of state on or before the sixtieth day before the day of the general election.

(2) Nominated by nominating petition in accordance with section 3513.257 of the Revised Code. The Such a petition shall be filed on or before the seventy-fifth day before the day of the general election to provide sufficient time to verify the sufficiency and accuracy of signatures on it.

(3) Certified to the secretary of state for placement on the presidential ballot by authorized officials of an intermediate or minor political party that

has held a state or national convention for the purpose of choosing those candidates or that may, without a convention, certify those candidates in accordance with the procedure authorized by its party rules. The officials shall certify the names of those candidates to the secretary of state on or before the sixtieth day before the day of the general election. The certification shall be accompanied by a designation of a sufficient number of presidential electors to satisfy the requirements of law.

The names of candidates for electors of president and vice-president shall not be placed on the ballot, but shall be certified to the secretary of state as required by sections 3513.11 and 3513.257 of the Revised Code. ~~The names of candidates for president and vice-president may be certified to the secretary of state, for placement on the presidential ballot, by authorized officials of an intermediate or minor political party which has held a state or national convention for the purpose of choosing such candidates, or which may, without convention, certify such candidates in accordance with the procedure authorized by its party rules. Certification to the secretary of state of such candidates shall be made on or before the seventy-fifth day before the day of the general election and shall be accompanied by designation of a sufficient number of presidential electors to satisfy the requirements of law. A vote for any of such candidates for president and vice-president shall be a vote for the electors of such those candidates whose names have been certified to the secretary of state.~~

(C) The arrangement of the printing in each of ~~such~~ the enclosed rectangular spaces shall be substantially as follows: Near the top and centered within the rectangular space shall be printed "For President" in ten-point boldface upper and lower case type. Below "For President" shall be printed the name of the candidate for president in twelve-point boldface upper case type. Below the name of the candidate for president shall be printed the name of the political party by which ~~such~~ that candidate for president was nominated in eight-point lightface upper and lower case type. Below the name of such political party shall be printed "For Vice-President" in ten-point boldface upper and lower case type. Below "For Vice-President" shall be printed the name of the candidate for vice-president in twelve-point boldface upper case type. Below the name of the candidate for vice-president shall be printed the name of the political party by which ~~such~~ that candidate for vice-president was nominated in eight-point lightface upper and lower case type. No political identification or name of any political party shall be printed below the names of presidential and vice-presidential candidates nominated by petition.

The rectangular spaces on the ballot described in this section shall be

rotated and printed as provided in section 3505.03 of the Revised Code.

Sec. 3506.20. (A) Notwithstanding anything in the Revised Code to the contrary, the secretary of state shall not do either of the following:

(1) Issue instructions by a rule, directive, or advisory to any county board of elections requiring the board to be in full compliance with the "Help America Vote Act of 2002," 116 Stat. 1666, 42 U.S.C. 15301, by a date that is earlier than January 1, 2005;

(2) Otherwise specify a date earlier than January 1, 2005, by which a county board of elections shall be in full compliance with the "Help America Vote Act of 2002," 116 Stat. 1666, 42 U.S.C. 15301.

(B) Notwithstanding any provision of section 3501.11 of the Revised Code to the contrary, a county board of elections shall not submit to the secretary of state, and the secretary of state shall not decide, any tie vote or disagreement of the board on whether the board will fully comply with the "Help America Vote Act of 2002," 116 Stat. 1666, 42 U.S.C. 15301, by a date that is earlier than January 1, 2005.

(C) The secretary of state shall apply for a waiver, pursuant to the "Help America Vote Act of 2002," 116 Stat. 1666, 42 U.S.C. 15301, of any applicable deadlines for the act's implementation earlier than January 1, 2005, except that the application shall not preclude any county board of elections that chooses to fully comply with the act by a date that is earlier than January 1, 2005, from doing so.

Sec. 3517.092. (A) As used in this section:

(1) "Appointing authority" has the same meaning as in section 124.01 of the Revised Code.

(2) "State elected officer" means any person appointed or elected to a state elective office.

(3) "State elective office" means any of the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, and justice and chief justice of the supreme court.

(4) "County elected officer" means any person appointed or elected to a county elective office.

(5) "County elective office" means any of the offices of county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, county commissioner, prosecuting attorney, and coroner.

(6) "Contribution" includes a contribution to any political party, campaign committee, political action committee, political contributing entity, or legislative campaign fund.

(B) No state elected officer, no campaign committee of such an officer, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that officer or that officer's campaign committee from any of the following:

(1) A state employee whose appointing authority is the state elected officer;

(2) A state employee whose appointing authority is authorized or required by law to be appointed by the state elected officer;

(3) A state employee who functions in or is employed in or by the same public agency, department, division, or office as the state elected officer.

(C) No candidate for a state elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit or accept a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:

(1) A state employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;

(2) A state employee at the time of the solicitation, whose appointing authority will be appointed by the candidate, if elected, as authorized or required by law;

(3) A state employee at the time of the solicitation, who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.

(D) No county elected officer, no campaign committee of such an officer, and no other person or entity shall knowingly solicit a contribution on behalf of that officer or that officer's campaign committee from any of the following:

(1) A county employee whose appointing authority is the county elected officer;

(2) A county employee whose appointing authority is authorized or required by law to be appointed by the county elected officer;

(3) A county employee who functions in or is employed in or by the same public agency, department, division, or office as the county elected officer.

(E) No candidate for a county elective office, no campaign committee of such a candidate, and no other person or entity shall knowingly solicit a contribution on behalf of that candidate or that candidate's campaign committee from any of the following:

(1) A county employee at the time of the solicitation, whose appointing authority will be the candidate, if elected;

(2) A county employee at the time of the solicitation, whose appointing

authority will be appointed by the candidate, if elected, as authorized or required by law;

(3) A county employee at the time of the solicitation, who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.

(F)(1) No public employee shall solicit a contribution from any person while the public employee is performing the public employee's official duties or in those areas of a public building where official business is transacted or conducted.

(2) No person shall solicit a contribution from any public employee while the public employee is performing the public employee's official duties or is in those areas of a public building where official business is transacted or conducted.

(3) As used in division (F) of this section, "public employee" does not include any person holding an elective office.

(G) The prohibitions in divisions (B), (C), (D), (E), and (F) of this section are in addition to the prohibitions in sections 124.57, ~~1553.09~~, 3304.22, and 4503.032 of the Revised Code.

Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide services for medically handicapped children;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code.

Sec. 3701.022. As used in sections 3701.021 to ~~3701.028~~ 3701.0210 of the Revised Code:

(A) "Medically handicapped child" means an Ohio resident under twenty-one years of age who suffers primarily from an organic disease, defect, or a congenital or acquired physically handicapping and associated condition that may hinder the achievement of normal growth and development.

(B) "Provider" means a health professional, hospital, medical equipment supplier, and any individual, group, or agency that is approved by the department of health pursuant to division (C) of section 3701.023 of the Revised Code and that provides or intends to provide goods or services to a child who is eligible for the program for medically handicapped children.

(C) "Service coordination" means case management services provided to medically handicapped children that promote effective and efficient organization and utilization of public and private resources and ensure that care rendered is family-centered, community-based, and coordinated.

(D)(1) "Third party" means any person or government entity other than the following:

(a) A medically handicapped child participating in the program for medically handicapped children or the child's parent or guardian;

(b) The department or any program administered by the department, including the "Maternal and Child Health Block Grant," Title V of the "Social Security Act," 95 Stat. 818 (1981), 42 U.S.C.A. 701, as amended;

(c) The "caring program for children" operated by the nonprofit community mutual insurance corporation.

(2) "Third party" includes all of the following:

(a) Any trust established to benefit a medically handicapped child participating in the program or the child's family or guardians, if the trust was established after the date the medically handicapped child applied to participate in the program;

(b) That portion of a trust designated to pay for the medical and ancillary care of a medically handicapped child, if the trust was established on or before the date the medically handicapped child applied to participate in the program;

(c) The program awarding reparations to victims of crime established under sections 2743.51 to 2743.72 of the Revised Code.

(E) "Third-party benefits" means any and all benefits paid by a third party to or on behalf of a medically handicapped child participating in the program or the child's parent or guardian for goods or services that are authorized by the department pursuant to division (B) or (D) of section 3701.023 of the Revised Code.

(F) "Hemophilia program" means the hemophilia program the department of health is required to establish and administer under section 3701.029 of the Revised Code.

Sec. 3701.024. (A)(1) Under a procedure established in rules adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill ~~through fiscal year 2005 and three-tenths of a mill thereafter~~, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the medical assistance program established under section 5111.01 of the Revised Code. The department shall not charge the county for expenses exceeding the difference between the amount determined under division (A)(1) of this section and any amounts retained under divisions (A)(2) and (3) of this section.

All amounts collected by the department under division (A)(1) of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow each county to retain up to ten per cent of the amount determined under division (A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the public health council shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at least thirty days prior to the date set for the hearing. Any county commissioner may appear and give testimony at the hearing. Any increase in the millage any county is required to provide for the program for medically handicapped children shall be determined, and notice of the amount of the increase shall be provided to each affected board of county commissioners, no later than the first day of June of the fiscal year next preceding the fiscal year in which the increase will take effect.

(B) Each board of county commissioners shall establish a medically handicapped children's fund and shall appropriate thereto an amount, determined in accordance with division (A)(1) of this section, for the county's share in providing medical, surgical, and other aid to medically handicapped children residing in such county and for the purposes specified in divisions (A)(2) and (3) of this section. Each county shall use money retained under divisions (A)(2) and (3) of this section only for the purposes specified in those divisions.

Sec. 3701.029. Subject to available funds, the department of health shall establish and administer a hemophilia program to provide payment of health insurance premiums for Ohio residents who meet all of the following requirements:

(A) Have been diagnosed with hemophilia or a related bleeding disorder;

(B) Are at least twenty-one years of age;

(C) Meet the eligibility requirements established by rules adopted under division (A)(12) of section 3701.021 of the Revised Code.

Sec. ~~3701.145~~ 3701.0210. ~~The director of health~~ medically handicapped children's medical advisory council shall ~~establish~~ appoint a hemophilia advisory ~~council~~ subcommittee to advise the director ~~and the department of health and council~~ on all matters pertaining to the care and treatment of persons with hemophilia. ~~The council~~ The duties of the subcommittee include, but are not limited to, the monitoring of care and treatment of children and adults who suffer from hemophilia or from other similar blood disorders.

The subcommittee shall consist of not fewer than ~~nineteen~~ fifteen members, each of whom shall be appointed ~~by the director~~ to terms of four years. The members of the ~~council~~ subcommittee shall elect a chairperson from among the appointed membership to serve a term of two years. Members of the ~~council~~ subcommittee shall serve without compensation, except that they may be reimbursed for travel expenses to and from meetings of the ~~council~~ subcommittee.

Members shall be appointed to represent all geographic areas of this state. Not fewer than five members of the ~~council~~ subcommittee shall be persons with hemophilia or family members of persons with hemophilia. Not fewer than five members shall be providers of health care services to persons with hemophilia. Not fewer than five members shall be experts in fields of importance to treatment of persons with hemophilia, including experts in infectious diseases, insurance, and law.

~~The council shall submit to the director of health, the governor, and the general assembly, a report no later than the thirtieth day of September of each year summarizing the current status and needs of persons in this state with hemophilia and of family members of persons with hemophilia.~~

Notwithstanding section 101.83 of the Revised Code, that section does not apply to the medically handicapped children's medical advisory council hemophilia advisory subcommittee, and the subcommittee shall not expire under that section.

Sec. 3701.141. (A) There is hereby created in the department of health ~~the office of women's health initiatives program, consisting of the chief of the office and an administrative assistant. To the extent of available funds, other positions determined necessary and relevant by the director of health may be added. The administrative assistant and all other employees assigned~~

~~to the office shall report to the chief and the chief to the director or the deputy specified by the director.~~

(B) To the extent funds are available, the ~~office of~~ women's health ~~initiatives program~~ shall:

(1) Identify, review, and assist the director in the coordination of programs and resources the department of health is committing to women's health concerns, including the department's women's and infants' program activities;

(2) Advocate for women's health by requesting that the department conduct, sponsor, encourage, or fund research; establish additional programs regarding women's health concerns as needed; and monitor the research and program efforts;

(3) Collect, classify, and store relevant research conducted by the department or other entities, and provide, unless otherwise prohibited by law, interested persons access to research results;

(4) ~~Generate~~ Apply for grant activities opportunities.

~~(C) Prior to the director's report to the governor on the department's biennial budget request, the office of women's health initiatives shall submit in writing to the director of health a biennial report of recommended programs, projects, and research to address critical issues in women's health.~~

Sec. 3701.61. (A) The department of health shall establish the help me grow program for the purpose of encouraging early prenatal and well-baby care. The program shall include distributing subsidies to counties to provide the following services:

(1) Home-visiting services to newborn infants and their families;

(2) Services to infants and toddlers under three years of age who are at risk for, or who have, a developmental delay or disability and their families.

(B) The department shall not provide home-visiting services under the help me grow program unless requested in writing by a parent of the infant or toddler.

(C) Pursuant to Chapter 119. of the Revised Code, the department shall adopt rules that are necessary and proper to implement this section.

Sec. 3701.741. (A) Through December 31, 2004, each health care provider and medical records company shall provide copies of medical records in accordance with this section.

(B) Except as provided in divisions (C) and (E) of this section, a health care provider or medical records company that receives a request for a copy of a patient's medical record may charge not more than the amounts set forth in this section. Total costs for copies and all services related to those copies shall not exceed the sum of the following:

(1) An initial fee of fifteen dollars, which shall compensate for the records search;

(2) With respect to data recorded on paper, the following amounts:

(a) One dollar per page for the first ten pages;

(b) Fifty cents per page for pages eleven through fifty;

(c) Twenty cents per page for pages fifty-one and higher.

(3) With respect to data recorded other than on paper, the actual cost of making the copy;

(4) The actual cost of any related postage incurred by the health care provider or medical records company.

(C) A health care provider or medical records company shall provide one copy without charge to the following:

(1) The bureau of workers' compensation, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(2) The industrial commission, in accordance with Chapters 4121. and 4123. of the Revised Code and the rules adopted under those chapters;

(3) The department of job and family services, in accordance with Chapter 5101. of the Revised Code and the rules adopted under those chapters;

(4) The attorney general, in accordance with sections 2743.51 to 2743.72 of the Revised Code and any rules that may be adopted under those sections;

(5) A patient or patient's representative if the medical record is necessary to support a claim under Title II or Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401 and 1381, as amended, and the request is accompanied by documentation that a claim has been filed.

(D) Division (C) of this section shall not be construed to supersede any rule of the bureau of workers' compensation, the industrial commission, or the department of job and family services.

(E) A health care provider or medical records company may enter into a contract with a patient, a patient's representative, or an insurer for the copying of medical records at a fee other than as provided in division (B) of this section.

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

(1) Copies of medical records provided to insurers authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code;

(2) Medical records the copying of which is covered by section 173.20 of the Revised Code or by 42 C.F.R. 483.10.

(G) Nothing in this section requires or precludes the distribution of medical records at any particular cost or fee to insurers authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state or health insuring corporations holding a certificate of authority under Chapter 1751. of the Revised Code.

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, ~~3701.88~~, 3702.20, 3710.15, 3711.021, 3717.45, 3721.02, 3722.04, 3733.04, 3733.25, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the Revised Code.

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3701.881. (A) As used in this section:

(1) "Applicant" means both of the following:

(a) A person who is under final consideration for appointment or employment with a home health agency in a position as a person responsible for the care, custody, or control of a child;

(b) A person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an older adult. With regard to persons providing direct care to older adults, "applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(3) "Home health agency" ~~has the same meaning as in section 3701.88 of the Revised Code~~ means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

(a) Skilled nursing care;

(b) Physical therapy;

(c) Speech-language pathology;

(d) Occupational therapy;

(e) Medical social services;

(f) Home health aide services.

(4) "Home health aide services" means any of the following services provided by an individual employed with or contracted for by a home health agency:

(a) Hands-on bathing or assistance with a tub bath or shower;

(b) Assistance with dressing, ambulation, and toileting;

(c) Catheter care but not insertion;

(d) Meal preparation and feeding.

(5) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

(6) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

(7) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(8) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.

(9) "Occupational therapy" has the same meaning as in section 4755.01 of the Revised Code.

(10) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.

(11) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

(12) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to each applicant. If the position may involve both responsibility for the care, custody, or control of a child and provision of direct care to an older adult, the chief administrator shall request that the superintendent conduct a single criminal records check for the applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that

five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof that the applicant has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (B)(1) of this section to request a criminal records check shall provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the chief administrator requests a criminal records check pursuant to division (B)(1) of this section.

(3) An applicant who receives pursuant to division (B)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheets with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide fingerprint impressions, the home health agency shall not employ that applicant for any position for which a criminal records check is required by division (B)(1) of this section.

(C)(1) Except as provided in rules adopted by the department of health in accordance with division (F) of this section and subject to division (C)(3) of this section, no home health agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24,

2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2) Except as provided in rules adopted by the department of health in accordance with division (F) of this section and subject to division (C)(3) of this section, no home health agency shall employ a person in a position that involves providing direct care to an older adult if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(2)(a) of this section.

(3)(a) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section as a person responsible for the care, custody, or control of a child until the criminal records check regarding the applicant required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment unless the agency chooses to employ the applicant pursuant to division (F) of this section.

(b)(i) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this

section in a position that involves providing direct care to an older adult or in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home health agency may employ conditionally in a position that involves providing direct care to an older adult an applicant who has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section. In the circumstances described in division (I)(4) of this section, a home health agency may employ conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults an applicant who has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(ii) A home health agency that employs an individual conditionally under authority of division (C)(3)(b)(i) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B)(1) of this section or described in division (I)(2) or (4) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the individual was employed conditionally in a position that involves the provision of direct care to older adults and the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(2) of this section, or if the individual was employed conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) or (2) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F)

of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (B)(1) of this section of the chief administrator of the home health agency.

(2) A home health agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section, unless the medical assistance program established under Chapter 5111. of the Revised Code reimburses the agency for the costs. A fee charged under division (D)(2) of this section shall not exceed the amount of fees the agency pays under division (D)(1) of this section. If a fee is charged under division (D)(2) of this section, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (B)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The home health agency requesting the criminal records check or its representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home health agency;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1), (2), (3), or (4) of this section.

(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall

specify circumstances under which the home health agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but who meets standards in regard to rehabilitation set by the department or employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department.

(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home health agency employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the agency employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the agency employed the individual in good faith on a conditional basis pursuant to division (C)(3)(b) of this section, the agency shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the agency in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the agency shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section.

(I)(1) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves providing direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.

(3) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults if the applicant has been

referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and both of the following apply:

(a) The chief administrator receives from the employment service or applicant a report of a criminal records check of the type described in division (I)(1)(a) of this section;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.

(4) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) or (2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.

Sec. 3701.99. (A) Whoever violates section 3701.25 of the Revised

Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (I) of section 3701.262, division (D) of section 3701.263, or section 3701.352 or sections 3701.46 to 3701.55 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree.

(C) Whoever violates section 3701.82 of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates section 3701.81 of the Revised Code is guilty of a misdemeanor of the second degree.

~~(E) Whoever violates division (G) of section 3701.88 of the Revised Code shall be fined not more than one hundred dollars. Each day the violation continues is a separate offense.~~

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, and 3702.32 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other administrative costs. The director of health shall provide to each health care facility or provider inspected pursuant to section 3702.15 or 3702.30 of the Revised Code a written statement of the fee. The statement shall itemize and total the costs incurred. Within fifteen days after receiving a statement from the director, the facility or provider shall forward the total amount of the fee to the director.

(3) The fees described in divisions (B)(1) and (2) of this section shall meet both of the following requirements:

(a) For each service described in section 3702.11 of the Revised Code, the fee shall not exceed one thousand ~~two~~ seven hundred fifty dollars annually, except that the total fees charged to a health care provider under this section shall not exceed five thousand dollars annually.

(b) The fee shall exclude any costs reimbursable by the United States health care financing administration as part of the certification process for the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the medicaid program established under Title XIX of that act.

(4) The director shall not establish a fee for any service for which a licensure or inspection fee is paid by the health care provider to a state agency for the same or similar licensure or inspection.

Sec. 3702.529. (A) A person granted a nonreviewability ruling prior to April 20, 1995, may implement the activity for which the ruling was issued in accordance with the information provided to the director of health in the request for the ruling, notwithstanding the amendments to sections 3702.51 to 3702.62 of the Revised Code by Amended Substitute Senate Bill No. 50 and Amended Substitute Senate Bill No. 156, both of the 121st general assembly. A person granted a certificate of need or nonreviewability ruling prior to that date is not required to file a notice of intent under section 3702.581 of the Revised Code, as that section existed prior to the effective date of this amendment, with respect to the activity for which the certificate or ruling was issued.

(B) A certificate of need is not required for any person to add a cardiac catheterization laboratory to an existing cardiac catheterization service, as described in division (R)(11) of section 3702.51 of the Revised Code, if the person, prior to ~~the effective date of this section June 30, 1995~~, filed a notice of intent under section 3702.581 of the Revised Code, as that section existed prior to the effective date of this amendment, to do so. However, the exemption provided by this division expires six months after ~~the effective date of this section June 30, 1995~~, unless the person has taken action to implement the addition by taking the applicable action listed in divisions (A)(1) to (6) of section 3702.525 of the Revised Code and provides the director with written documentation that action has been taken.

(C) The director shall issue a reviewability ruling, in accordance with the version of section 3702.528 of the Revised Code in effect immediately prior to ~~the effective date of this section June 30, 1995~~, to any hospital that requested one prior to that date concerning a relocation of any of the following to another hospital in the same or a different metropolitan statistical area:

- (1) Obstetric or newborn care beds registered under section 3701.07 of the Revised Code as level II or III beds;
- (2) Pediatric intensive care beds;
- (3) A health service specified in division (R)(1) of section 3702.51 of the Revised Code.

A certificate of need is not required to conduct such a relocation for which the director has issued a nonreviewability ruling. However, the exemption provided by this division expires six months after ~~the effective date of this section~~ June 30, 1995, unless the hospital has taken action to implement the relocation by taking the applicable action listed in divisions (A)(1) to (6) of section 3702.525 of the Revised Code and provides the director with written documentation that action has been taken.

The director shall not issue a reviewability ruling requested under the previous version of section 3702.528 of the Revised Code concerning a relocation of long-term care beds.

(D) A certificate of need is not required to relocate existing health services from one hospital to another, as described in division (T) of the version of section 3702.51 of the Revised Code in effect immediately prior to ~~the effective date of this section~~ June 30, 1995, if the hospitals filed the notice of intent required by division (T)(2) of that version prior to ~~the effective date of this amendment~~ June 30, 1995, and comply with divisions (T)(1) and (T)(3) to (6) of that version.

Sec. 3702.53. (A) No person shall carry out any reviewable activity unless a certificate of need for such activity has been granted under sections 3702.51 to 3702.62 of the Revised Code or the person is exempted by division (T) of section 3702.51 or section 3702.527, 3702.528, 3702.529, 3702.5210, or 3702.62 of the Revised Code from the requirement that a certificate of need be obtained. No person shall carry out any reviewable activity if a certificate of need authorizing that activity has been withdrawn by the director of health under section 3702.52 or 3702.526 of the Revised Code. No person shall carry out a reviewable activity if the certificate of need authorizing that activity is void pursuant to section 3702.524 of the Revised Code or has expired pursuant to section 3702.525 of the Revised Code.

(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.

(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of

need.

~~(D) No person shall fail to file a notice required by section 3702.581 of the Revised Code.~~

Sec. 3702.532. When the director of health determines that a person has violated section 3702.53 of the Revised Code, the director shall send a notice to the person by certified mail, return receipt requested, specifying the activity constituting the violation and the penalties imposed under section 3702.54, 3702.541, or 3702.542; ~~or 3702.543~~ of the Revised Code.

Sec. 3702.54. Except as provided in sections 3702.541; and 3702.542; and former section 3702.543 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

- (1) Three thousand dollars;
- (2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;
- (3) Two per cent of the total capital cost associated with implementation of the activity.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after ~~he~~ the director mails the notice of ~~his~~ the director's determination under section 3702.532 of the Revised Code or, if ~~his~~ the determination is appealed under section 3702.60 of the Revised Code, the issuance of the order upholding ~~his~~ the determination that is not subject to further appeal. In determining the length of time during which ~~he~~ will not accept applications will not be accepted, the director may consider any of the following:

- (a) The nature and magnitude of the violation;
- (b) The ability of the person to have averted the violation;
- (c) Whether the person disclosed the violation to the director before the director commenced his investigation;
- (d) The person's history of compliance with sections 3702.51 to 3702.62 and the rules adopted under section 3702.57 of the Revised Code;
- (e) Any community hardship that may result from refusing to accept

future applications from the person.

(2) Notwithstanding the one-year minimum imposed by division (B)(1) of this section, the director may establish a period of less than one year during which ~~he~~ the director will refuse to accept certificate of need applications if, after reviewing all information available to ~~him~~ the director, ~~he~~ the director determines and expressly indicates in the notice mailed under section 3702.532 of the Revised Code that refusing to accept applications for a longer period would result in hardship to the community in which the person provides health services. The director's finding of community hardship shall not affect the granting or denial of any future certificate of need application filed by the person.

Sec. 3702.544. Each person required by section 3702.54, 3702.541, or 3702.542, or former section 3702.543 of the Revised Code to pay a civil penalty shall do so not later than sixty days after receiving the notice mailed under section 3702.532 of the Revised Code or, if the person appeals under section 3702.60 of the Revised Code the director of health's determination that a violation has occurred, not later than sixty days after the issuance of an order upholding ~~his~~ the director's determination that is not subject to further appeal. The civil penalties shall be paid to the director. The director shall deposit them into the certificate of need fund created by section 3702.52 of the Revised Code.

Sec. 3702.55. Except as provided in section 3702.542 of the Revised Code, a person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or utilizing the equipment or facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal. A person that applies for a certificate of need as described in section 3702.542 of the Revised Code shall cease conducting the activity or using the equipment or facility in accordance with the timetable established by the director of health under that section.

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using equipment or a facility as required by this section or a timetable established under section 3702.542 of the Revised Code, or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to

the penalties imposed under section 3702.54, 3702.541, or 3702.542; or former section 3702.543 of the Revised Code:

(A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a maternity boardinghouse or lying-in hospital under section 3711.02 of the Revised Code; a hospice care program under section 3712.04 of the Revised Code; a nursing home, rest home, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, rest home, or home for the aging, or any beds within any of those facilities that are involved in the activity;

(D) The director of mental health may refuse to license under section 5119.20 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of job and family services may refuse to enter into a provider agreement that includes a facility, beds, or services that result from the activity.

Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling issued on or after April 20, 1995, to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director on or after April 20, 1995, to grant or deny a certificate of need application for which an adjudication hearing was not conducted under section 3702.52 of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or an affected person that was a party to and participated in an adjudication hearing conducted under this division or section 3702.52 of the Revised Code may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing. No person may appeal to the director or a court the director's

granting of a certificate of need prior to ~~the effective date of this amendment June 30, 1995,~~ under the version of section 3702.52 of the Revised Code in effect immediately prior to that date due to failure to submit timely written objections, no person may appeal to the director or a court the director's granting of a certificate of need under division (C)(1) or (2) of section 3702.52 of the Revised Code.

(C) The certificate of need holder may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director under section 3702.52 or 3702.526 of the Revised Code on or after April 20, 1995, to withdraw a certificate of need, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54, 3702.541, or 3702.542; or former section 3702.543 of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a

finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters, irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.61. In addition to the sanctions imposed under sections 3702.54, 3702.541, 3702.542, ~~3702.543~~, and 3702.55 and former section 3702.543 of the Revised Code, if any person violates section 3702.53 of the Revised Code, the attorney general may commence necessary legal proceedings in the court of common pleas of Franklin county to enjoin the person from such violation until the requirements of sections 3702.51 to 3702.62 of the Revised Code have been satisfied. At the request of the director of health, the attorney general shall commence any necessary proceedings. The court has jurisdiction to grant and, on a showing of a violation, shall grant appropriate injunctive relief.

Sec. 3702.63. As specified in former Section 11 of Am. Sub. S.B. 50 of the 121st general assembly, as amended by Am. Sub. H.B. 405 of the 124th general assembly, all of the following apply:

(A) The removal of former divisions (E) and (F) of section 3702.52 of the Revised Code by Sections 1 and 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under those divisions from complying with any conditions on which the granting of the certificates of need was based, including the requirement of former division (E)(6) of that section that the holders not enter into provider agreements under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, for

at least ten years following initial licensure of the long-term care facilities for which the certificates were granted.

(B) The repeal of section 3702.55 of the Revised Code by Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting of the certificates of need was based, other than the requirement of division (A)(6) of that section that the holders not seek certification under Title XVIII of the "Social Security Act" for beds recategorized under the certificates. That repeal also does not eliminate the requirement that the director of health revoke the licensure of the beds under Chapter 3721. of the Revised Code if a person to which their ownership is transferred fails, as required by division (A)(6) of the repealed section, to file within ten days after the transfer a sworn statement not to seek certification under Title XIX of the "Social Security Act" for beds recategorized under the certificates of need.

(C) The repeal of section 3702.56 of the Revised Code by Section 2 of Am. Sub. S.B. 50 of the 121st general assembly does not release the holders of certificates of need issued under that section from complying with any conditions on which the granting of the certificates of need was based.

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code, this section applies to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~2003~~ 2005.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing

facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~2003~~ 2005.

(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2003~~ 2005, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(2) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. The director also shall accept for review any application that seeks certificate of need approval for existing beds located in an infirmary that is operated exclusively by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and was providing care exclusively to members of such a religious order on January 1, 1994.

(D) The director shall issue a decision regarding any case remanded by a court as the result of a decision issued by the director prior to July 1, 1993, to grant, deny, or withdraw a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(E) The director shall not project the need for beds listed in division (B)(1) of this section for the period beginning July 1, 1993, and ending June 30, ~~2003~~ 2005.

This section is an interim section effective until July 1, ~~2003~~ 2005.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code, the director of health, and the Ohio board of regents may enter into a contract for the physician's participation in the physician loan repayment program. A lending institution may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program;

(d) Meet the conditions established by the department of job and family services for participation in the disability ~~assistance~~ medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability medical assistance.

(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the service obligation,

three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the physician's duty to pay the principal and interest of a government or other educational loan taken by the physician for expenses described in section 3702.75 of the Revised Code. If the board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

Sec. 3705.01. As used in this chapter:

(A) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception that after such expulsion or extraction breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(B)(1) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception of at least twenty weeks of gestation, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(2) "Stillborn" means that an infant suffered a fetal death.

(C) "Dead body" means a human body or part of a human body from the condition of which it reasonably may be concluded that death recently occurred.

(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.

(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.

(G) "Funeral director" has the meaning given in section 4717.01 of the Revised Code.

(H) "State registrar" means the head of the office of vital statistics in the department of health.

(I) "Medical certification" means completion of the medical certification portion of the certificate of death or fetal death as to the cause of death or

fetal death.

(J) "Final disposition" means the interment, cremation, removal from the state, donation, or other authorized disposition of a dead body or a fetal death.

(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.

(L) "Cremation" means the reduction to ashes of a dead body.

(M) "Donation" means gift of a dead body to a research institution or medical school.

(N) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this chapter, and activities related thereto.

(O) "Vital records" means certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, annulment, and data related thereto and other documents maintained as required by statute.

(P) "File" means the presentation of vital records for registration by the office of vital statistics.

(Q) "Registration" means the acceptance by the office of vital statistics and the incorporation of vital records into its official records.

(R) "Birth record" means a birth certificate that has been registered with the office of vital statistics; or, if registered prior to the effective date of this section, with the division of vital statistics; or, if registered prior to the establishment of the division of vital statistics, with the department of health or a local registrar.

(S) "Certification of birth" means a document issued by the director of health or state registrar or a local registrar under division (B) of section 3705.23 of the Revised Code.

Sec. 3705.23. (A)(1) Except as otherwise provided in this section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section 3705.24 of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. The certified copy shall show the date the vital record was registered by the local registrar.

(2) A certified copy of a vital record may be made by a mechanical, electronic, or other reproduction process. It shall be certified as a true copy by the director, state registrar, or local registrar who has custody of the record and shall include the date of issuance, the name of the issuing officer, the signature of the officer or an authorized facsimile of the signature, and

the seal of the issuing office.

(3) A certified copy of a vital record or of any part of a vital record, issued in accordance with this section, shall be considered for all purposes the same as the original and shall be prima-facie evidence of the facts stated in it in all courts and places.

(4)(a) Information contained in the "information for medical and health use only" section of a birth record shall not be included as part of a certified copy of the birth record unless the information specifically is requested by the individual to whose birth the record attests, either of the individual's parents or the individual's guardian, a lineal descendant, or an official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime.

(b) Except as provided in division (A)(4)(a) of this section, neither the office of vital statistics nor a local registrar shall disclose information contained in the "information for medical and health use only" section of a birth record unless a court, for good cause shown, orders disclosure of the information or the state registrar specifically authorizes release of the information for statistical or research purposes under conditions the state registrar, subject to the approval of the director of health, shall establish by rule.

(B)(1) Unless the applicant specifically requests a certified copy, the director, the state registrar, or a local registrar, on receipt of a signed application for a birth record and the fee specified in section 3705.24 of the Revised Code, may issue a certification of birth, and the certification of birth shall contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and shall attest that the person's birth has been registered. A certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(2) The director or the state registrar, on the receipt of a signed application for an heirloom certification of birth and the fee specified in section 3705.24 of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(3) The director or the state registrar, on the receipt of an application signed by either parent, shall issue a certificate recognizing the delivery of a

stillborn infant. The director shall prescribe guidelines by rule for the form of the certificate. The guidelines shall require that the certificate contain at least the name, sex, date of delivery, and place of delivery. The director or the state registrar shall charge no fee for the certificate. A certificate recognizing the delivery of a stillborn infant is not proof of a live birth for purposes of federal, state, and local taxes.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

~~(D) Except as provided in division (A)(4)(b) of this section, the state registrar and a local registrar, on request, shall provide uncertified copies of vital records in accordance with section 149.43 of the Revised Code.~~

~~Sec. 3705.24. (A) Except as otherwise provided in this division or division (G) of this section, the fee for a certified copy of a vital record or for a certification of birth shall be seven dollars plus any fee required by section 3109.14 of the Revised Code. Except as provided in section 3705.241 of the Revised Code, the fee for a certified copy of a vital record or for a certification of birth issued by the office of vital statistics shall be an amount prescribed by the public health council plus any fee required by section 3109.14 of the Revised Code. The fee for a certified copy of a vital record or for a certification of birth issued by a health district shall be an amount prescribed in accordance with section 3709.09 of the Revised Code plus any fee required by section 3109.14 of the Revised Code. No certified copy of a vital record or certification of birth shall be issued without payment of the fee unless otherwise specified by statute.~~

~~For a special search of the files and records to determine a date or place contained in a record on file, the office of vital statistics shall charge a fee of three dollars for each hour or fractional part of an hour required for the search.~~

(B)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request;

(b) Replacement of a birth certificate following an adoption.

legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fee required by section 3109.14 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (G)(H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Money Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general

health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

~~(D)~~(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

~~(E)~~(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

~~(F)~~(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

~~(G)~~(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount

prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board. ~~Fees~~

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of the Revised Code that establish fee categories and uniform methodologies for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) At least thirty days prior to establishing a fee for a service provided by the board for a purpose specified in section 3701.344, 3711.05, 3730.03, 3733.04, 3733.25, or 3749.04 of the Revised Code, a board of health shall notify any entity that would be affected by the proposed fee of the amount of the proposed fee.

Sec. 3710.05. (A) Except as otherwise provided in this chapter, no person shall engage in any asbestos hazard abatement activities in this state unless licensed or certified pursuant to this chapter.

(B) To apply for licensure as an asbestos abatement contractor or certification as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement project designer, or an asbestos hazard abatement air-monitoring technician, a person shall do all of the following:

(1) Submit a completed application to the department of health, on a form provided by the department;

(2) Pay the requisite fee as provided in division (D) of this section;

(3) Submit any other information the public health council by rule requires.

(C) The application form for a business entity or public entity applying for an asbestos hazard abatement contractor's license shall include all of the following:

(1) A description of the protective clothing and respirators that the public entity will use to comply with rules adopted by the public health council and that the business entity will use to comply with requirements of the United States occupational safety and health administration;

(2) A description of procedures the business entity or public entity will use for the selection, utilization, handling, removal, and disposal of clothing to prevent contamination or recontamination of the environment and to protect the public health from the hazards associated with exposure to asbestos;

(3) The name and address of each asbestos disposal site that the business entity or public entity might use during the year;

(4) A description of the site decontamination procedures that the business entity or public entity will use;

(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;

(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;

(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;

(8) A description of the final clean-up procedures that the business entity or public entity will use;

(9) A list of all partners, owners, and officers of the business entity

along with their social security numbers;

(10) The federal tax identification number of the business entity or the public entity.

(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:

(1) ~~Five~~ Seven hundred ~~fifty~~ dollars for asbestos hazard abatement contractors;

(2) ~~One Two~~ hundred ~~twenty-five~~ dollars for asbestos hazard abatement project designers;

(3) ~~Twenty-five~~ Fifty dollars for asbestos hazard abatement workers;

(4) ~~One Two~~ hundred ~~twenty-five~~ dollars for asbestos hazard abatement specialists;

(5) ~~One Two~~ hundred ~~twenty-five~~ dollars for asbestos hazard evaluation specialists; and

(6) ~~Seven~~ Nine hundred ~~fifty~~ dollars for approval or renewal of asbestos hazard training providers.

(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter.

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following:

(1) Prepare a written respiratory protection program as defined by the public health council pursuant to rule, and make the program available to the department of health, and workers at the job site if the contractor is a public entity or prepare a written respiratory protection program, consistent with 29 C.F.R. 1910.134 and make the program available to the department, and workers at the job site if the contractor is a business entity;

(2) Ensure that each worker who will be involved in any asbestos hazard abatement project has been examined within the preceding year and has been declared by a physician to be physically capable of working while wearing a respirator;

(3) Ensure that each of ~~his~~ the contractor's employees or agents who will

come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project receives the appropriate certification or licensure required by this chapter and the following training:

(a) An initial course approved by the department pursuant to section 3710.10 of the Revised Code, completed before engaging in any asbestos hazard abatement project; and

(b) An annual review course approved by the department pursuant to section 3710.10 of the Revised Code.

(B) After obtaining or renewing a license, an asbestos hazard abatement contractor shall notify the department, on a form approved by the director of health, at least ten days before beginning each asbestos hazard abatement project conducted during the term of ~~his~~ the contractor's license.

(C) In addition to any other fee imposed under this chapter, an asbestos hazard abatement contractor shall pay, at the time of providing notice under division (B) of this section, the department a fee of ~~twenty-five~~ sixty-five dollars for each asbestos hazard abatement project conducted.

Sec. 3711.021. For the purposes of this chapter, a maternity hospital or lying-in hospital includes a limited maternity unit, which is a unit in a hospital that contains no other maternity unit, in which care is provided during all or part of the maternity cycle and newborns receive care in a private room serving all antepartum, labor, delivery, recovery, postpartum, and nursery needs.

The director of health may charge a maternity hospital or lying-in hospital seeking an initial or renewal license under this chapter a fee not exceeding the following:

(A) ~~Three~~ Four thousand ~~eight hundred fifty~~ forty-two dollars for a hospital in which not less than two thousand births occurred the previous calendar year;

(B) Three thousand ~~three~~ five hundred ~~fifty~~ seventeen dollars for a hospital in which not more than one thousand nine hundred ninety-nine and not less than one thousand births occurred the previous calendar year;

(C) Two thousand ~~eight~~ nine hundred ~~fifty~~ ninety-two dollars for a hospital in which not more than nine hundred ninety-nine and not less than six hundred fifty births occurred the previous calendar year;

(D) Two thousand ~~three~~ four hundred ~~fifty~~ sixty-seven dollars for a hospital in which not more than six hundred forty-nine and not less than four hundred fifty births occurred the previous calendar year;

(E) One thousand ~~eight~~ nine hundred ~~fifty~~ forty-two dollars for a hospital in which not more than four hundred forty-nine births and not less than one hundred births occurred the previous calendar year;

(F) One thousand ~~three~~ four hundred ~~fifty~~ seventeen dollars for a hospital in which not more than ninety-nine births occurred the previous calendar year.

The director shall deposit all fees collected under this section into the general operations fund created under section 3701.83 of the Revised Code. Money generated by the fees shall be used only for administration and enforcement of this chapter and rules adopted under it.

Sec. 3717.42. (A) The following are not food service operations:

(1) A retail food establishment licensed under this chapter, including a retail food establishment that provides the services of a food service operation pursuant to an endorsement issued under section 3717.24 of the Revised Code;

(2) An entity exempt from the requirement to be licensed as a retail food establishment under division (B) of section 3717.22 of the Revised Code;

(3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

(B) All of the following are exempt from the requirement to be licensed as a food service operation:

(1) A private home in which individuals related by blood, marriage, or law reside and in which the food that is prepared or served is intended only for those individuals and their nonpaying guests;

(2) A private home operated as a bed-and-breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, and the number of guests served does not exceed sixteen;

(3) A stand operated on the premises of a private home by one or more children under the age of twelve, if the food served is not potentially hazardous;

(4) A residential facility that accommodates not more than sixteen residents; is licensed, certified, registered, or otherwise regulated by the federal government or by the state or a political subdivision of the state; and prepares food for or serves food to only the residents of the facility, the staff of the facility, and any nonpaying guests of residents or staff;

(5) A church, school, fraternal or veterans' organization, volunteer fire organization, or volunteer emergency medical service organization preparing or serving food intended for individual portion service on its premises for not more than seven consecutive days or not more than

fifty-two separate days during a licensing period. This exemption extends to any individual or group raising all of its funds during the time periods specified in division (B)(5) of this section for the benefit of the church, school, or organization by preparing or serving food intended for individual portion service under the same conditions.

(6) A common carrier that prepares or serves food, if the carrier is regulated by the federal government;

(7) A food service operation serving ~~five~~ thirteen or fewer individuals daily;

(8) A type A or type B family day-care home, as defined in section 5104.01 of the Revised Code, that prepares or serves food for the children receiving day-care;

(9) A vending machine location where the only foods dispensed are foods from one or both of the following categories:

(a) Prepackaged foods that are not potentially hazardous;

(b) Nuts, panned or wrapped bulk chewing gum, or panned or wrapped bulk candies.

(10) A place servicing the vending machines at a vending machine location described in division (B)(9) of this section;

(11) A commissary servicing vending machines that dispense only milk, milk products, or frozen desserts that are under a state or federal inspection and analysis program;

(12) A "controlled location vending machine location," which means a vending machine location at which all of the following apply:

(a) The vending machines dispense only foods that are not potentially hazardous;

(b) The machines are designed to be filled and maintained in a sanitary manner by untrained persons;

(c) Minimal protection is necessary to ensure against contamination of food and equipment.

(13) A private home that prepares and offers food to guests, if the home is owner-occupied, meals are served on the premises of that home, the number of meals served does not exceed one hundred fifteen per week, and the home displays a notice in a place conspicuous to all of its guests informing them that the home is not required to be licensed as a food service operation;

(14) An individual who prepares full meals or meal components, such as pies or baked goods, in the individual's home to be served off the premises of that home, if the number of meals or meal components prepared for that purpose does not exceed twenty in a seven-day period.

Sec. 3721.02. (A) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(B) A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter 3722. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

(C) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides

accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D) The director of health shall charge an application fee and an annual renewal licensing and inspection fee of one hundred five dollars for each fifty persons or part thereof of a home's licensed capacity. All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the public health council under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for

employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending ~~sixty~~ thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or

program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense

listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or adult-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3722.151. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section 3722.01 of the Revised Code.

(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings

as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the public health council in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09,

2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) An adult care facility may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the facility shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult care facility may employ conditionally an applicant who has been referred to the adult care facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) An adult care facility that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending ~~sixty~~ thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the facility shall terminate the individual's employment unless the facility chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the facility about the individual's criminal record.

(D)(1) Each adult care facility shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) An adult care facility may charge an applicant a fee not exceeding the amount the facility pays under division (D)(1) of this section. A facility may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the facility requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the adult care facility;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which an adult care facility may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

(G) The chief administrator of an adult care facility shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult care facility employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the facility employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the facility shall not be found negligent solely because of its

reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the facility employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the facility shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the facility in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the facility shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of an adult care facility is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult care facility chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of an adult care facility is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant

has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care facility. If an adult care facility employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult care facility, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3733.43. (A) Except as otherwise provided in this division, prior to the fifteenth day of April in each year, every person who intends to operate an agricultural labor camp shall make application to the licenser for a license to operate such camp, effective for the calendar year in which it is issued. The licenser may accept an application on or after the fifteenth day of April. The license fees specified in this division shall be submitted to the licenser with the application for a license. No agricultural labor camp shall be operated in this state without a license. Any person operating an agricultural labor camp without a current and valid agricultural labor camp license is not excepted from compliance with sections 3733.41 to 3733.49 of the Revised Code by holding a valid and current hotel license. Each person proposing to open an agricultural labor camp shall submit with the application for a license any plans required by any rule adopted under section 3733.42 of the Revised Code. The annual license fee is ~~twenty~~ seventy-five dollars, unless the application for a license is made on or after the fifteenth day of April, in which case the annual license fee is ~~forty one~~ hundred dollars. An additional fee of ~~three ten~~ three dollars per housing unit per year shall be assessed to defray the costs of enforcing sections 3733.41 to 3733.49 of the Revised Code, unless the application for a license is made on or after the fifteenth day of April, in which case an additional fee of ~~six~~ fifteen dollars per housing unit shall be assessed. All fees collected under this division shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and shall be used for the administration and enforcement of sections 3733.41 to 3733.49 of the Revised Code and rules adopted thereunder.

(B) Any license under this section may be denied, suspended, or revoked by the licenser for violation of sections 3733.41 to 3733.49 of the Revised Code or the rules adopted thereunder. Unless there is an immediate serious public health hazard, no denial, suspension, or revocation of a license shall be made effective until the person operating the agricultural

labor camp has been given notice in writing of the specific violations and a reasonable time to make corrections. When the licensor determines that an immediate serious public health hazard exists, ~~he~~ the licensor shall issue an order denying or suspending the license without a prior hearing.

(C) All proceedings under this section are subject to Chapter 119. of the Revised Code except as provided in section 3733.431 of the Revised Code.

(D) Every occupant of an agricultural labor camp shall keep that part of the dwelling unit, and premises thereof, that ~~he~~ the occupant occupies and controls in a clean and sanitary condition.

Sec. 3733.45. (A) The licensor shall inspect all agricultural labor camps and shall require compliance with sections 3733.41 to 3733.49 of the Revised Code and the rules adopted thereunder prior to the issuance of a license. Upon receipt of a complaint from the migrant agricultural ~~ombudsman~~ ombudsperson or upon the basis of a licensor's own information that an agricultural labor camp is operating without a license, the licensor shall inspect the camp. If the camp is operating without a license, the licensor shall require the camp to comply with sections 3733.41 to 3733.49 of the Revised Code and the rules adopted under those sections. No license shall be issued unless results of water supply tests indicate that the water supply meets required standards or if any violations exist concerning sanitation, drainage, or habitability of housing units.

(B) The licensor shall, upon issuance of each license, distribute posters containing the toll-free telephone number of the migrant agricultural ~~ombudsman~~ ombudsperson established in section 3733.49 of the Revised Code and information in English and Spanish describing the purpose of the ~~ombudsman's~~ ombudsperson's office, as provided in that section. The licensor shall provide at least two posters to the licensee, one for ~~his~~ the licensee's personal use and at least one that shall be posted in a conspicuous place within the camp.

(C) The licensor may, upon proper identification to the operator or ~~his~~ the operator's agent, enter on any property or into any structure at any reasonable time for the purpose of making inspections required by this section.

The licensor shall make at least one inspection prior to licensing, ~~and at least two inspections during occupancy of the camps, at least one of which shall be an unannounced evening inspection conducted after five p.m. The licensor shall determine and record housing unit occupancy during each evening inspection.~~ The licensor shall make such other inspections as ~~he~~ the licensor considers necessary to enforce sections 3733.41 to 3733.49 of the Revised Code adequately.

(D) Any plans submitted to the licensor shall be in compliance with rules adopted pursuant to section 3733.42 of the Revised Code and shall be approved or disapproved within thirty days after they are filed.

~~(E) All designees of the licensor who conduct inspections in the evening in accordance with this section shall speak both English and Spanish fluently. At least one member of the permanent staff assigned to conduct inspections in accordance with this section shall speak both English and Spanish fluently.~~

~~(F)~~ The licensor shall issue an annual report that shall accurately reflect the results of that year's inspections, including, but not limited to, numbers of ~~pre- and post-occupancy~~ inspections, number of violations found, and action taken in regard to violations. The report shall also include an assessment of any problems found in that year and proposed solutions for them.

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of

the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

The director may use moneys in the infectious waste management fund created in section 3734.021 of the Revised Code exclusively for administering and enforcing the provisions of this chapter governing the management of infectious wastes. Of each registration and renewal fee collected under rules adopted under division (A)(2)(a) of section 3734.021 or under section 3734.022 of the Revised Code, the director, within forty-five days of its receipt, shall remit from the fund one-half of the fee received to the board of health of the health district in which the registered premises is located, or, in the instance of an infectious wastes transporter, to the board of health of the health district in which the transporter's principal place of business is located. However, if the board of health having jurisdiction over a registrant's premises or principal place of business is not on the approved list under section 3734.08 of the Revised Code, the director shall not make that payment to the board of health.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(5) of that section, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(6) of section 3734.05 of the Revised Code denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or

modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to an infectious waste treatment facility that meets any of the following conditions:

(1) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the

state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division and section 3734.18 of the Revised Code:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit ~~from the hazardous waste facility board~~ issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed five years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of

issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and satellite	\$ 500
Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Incinerator	On-site and satellite	5,000
	Off-site	<u>10,000</u>
Other forms of treatment	On-site, off-site, and satellite	1,000

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit ~~from the board~~ does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)~~(8)~~(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in

accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its

lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) No owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes, other than those subject to division (A)(1)(c) of section 3734.021 of the Revised Code, that have not been treated to render them noninfectious. For the purposes of this division, certification by the owner or operator of the treatment facility where the wastes were treated on the shipping paper required by rules adopted under division (D)(2) of that section creates a rebuttable presumption that the wastes have been so treated.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification

program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the

national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The

rules shall specify the applicability of divisions (A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this

section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), or (4) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

- (i) Any increase of more than ten per cent in the total capacity of a solid waste facility;
- (ii) Any expansion of the limits of solid waste placement at a solid waste facility;
- (iii) Any increase in the depth of excavation at a solid waste facility;
- (iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than thirty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new

or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised

Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject

to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for

there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) Each person who is engaged in the business of treating infectious wastes for profit at a treatment facility located off the premises where the wastes are generated that is in operation on August 10, 1988, and who proposes to continue operating the facility shall submit to the board of health of the health district in which the facility is located an application for a license to operate the facility.

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the

facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a completed application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a completed application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application

fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:

(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;

(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;

(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or

water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

On and after the effective date of the amendments to the rules adopted

under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit ~~an~~ a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency, ~~except as provided in division (E)(2) of this section~~, at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

~~(D)(1) There is hereby created the hazardous waste facility board, composed of the director of environmental protection who shall serve as chairperson, the director of natural resources, and the chairperson of the Ohio water development authority, or their respective designees, and one chemical engineer and one geologist who each shall be employed by a state university as defined in section 3345.011 of the Revised Code. The chemical engineer and geologist each shall be appointed by the governor, with the~~

~~advice and consent of the senate, for a term of two years. The chemical engineer and geologist each shall receive as compensation five thousand dollars per year, plus expenses necessarily incurred in the performance of their duties.~~

~~The board shall not issue any final order without the consent of at least three members.~~

~~(2) The hazardous waste facility board shall do both of the following:~~

~~(a) Pursuant to Chapter 119. of the Revised Code, adopt rules governing procedure to be followed in hearings before the board;~~

~~(b) Except as provided in section 3734.123 of the Revised Code, approve or disapprove applications for a hazardous waste facility installation and operation permit for new facilities and applications for modifications to existing permits for which the board has jurisdiction as provided in division (I)(3) of this section.~~

~~(3) Except as provided in section 3734.123 of the Revised Code, upon receipt of the completed application for a hazardous waste facility installation and operation permit and a preliminary determination by the staff of the environmental protection agency that the application appears to comply with agency rules and to meet the performance standards set forth in divisions (D), (I), and (J) of section 3734.12 of the Revised Code, the director shall transmit the application to the board, which shall do all of the following:~~

~~(a) Promptly fix a date for a public hearing on the application, not fewer than sixty nor more than ninety days after receipt of the completed application. At the public hearing, any person may submit written or oral comments or objections to the approval or disapproval of the application. A representative of the applicant who has knowledge of the location, construction, operation, closure, and post closure care, if applicable, of the facility shall attend the public hearing in order to respond to comments or questions concerning the facility directed to the representative by the presiding officer.~~

~~(b) Give public notice of the date of the public hearing and a summary of the application in a newspaper having general circulation in the county in which the facility is proposed to be located. The notice shall contain, at a minimum, the date, time, and location of the public hearing and shall include the location and street address of, or the nearest intersection to, the proposed facility, a description of the proposed facility, and the location where copies of the application, a short statement by the applicant of the anticipated environmental impact of the facility, and a map of the facility are available for inspection.~~

~~(c) Promptly fix a date for an adjudication hearing, not fewer than ninety nor more than one hundred twenty days after receipt of the completed application, at which hearing the board shall hear and decide all disputed issues between the parties respecting the approval or disapproval of the application.~~

~~(4) The parties to any adjudication hearing before the board upon a completed application shall be the following:~~

~~(a) The applicant;~~

~~(b) The staff of the environmental protection agency;~~

~~(c) The board of county commissioners of the county, the board of township trustees of the township, and the chief executive officer of the municipal corporation in which the facility is proposed to be located;~~

~~(d) Any other person who would be aggrieved or adversely affected by the proposed facility and who files a petition to intervene in the adjudication hearing not later than thirty days after the date of publication of the notice required in division (D)(3)(b) of this section if the petition is granted by the board for good cause shown. The board may allow intervention by other aggrieved or adversely affected persons up to fifteen days prior to the date of the adjudication hearing for good cause shown when the intervention would not be unduly burdensome to or cause a delay in the permitting process.~~

~~(5) The hazardous waste facility board shall conduct any adjudication hearing upon disputed issues in accordance with Chapter 119. of the Revised Code and the rules of the board governing the procedure of such hearings. Each party may call and examine witnesses and submit other evidence respecting the disputed issues presented by an application. A written record shall be made of the hearing and of all testimony and evidence submitted to the board upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time,~~

and location of the public meeting in a newspaper of general circulation in that county.

~~(6)(2)~~ (2) The ~~board~~ director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless ~~the director~~ finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

~~(i) Contamination of ground and surface waters;~~

~~(ii) Fires or explosions from treatment, storage, or disposal methods;~~

~~(iii) Accident~~ (ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

~~(iv) Impact~~ (iii) Adverse impact on the public health and safety;

~~(v) Air pollution;~~

~~(vi) Soil contamination.~~

(e) That the facility will comply with this chapter and Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under ~~those chapters~~ them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704., 3734., and 6111. of the Revised Code and all rules and standards adopted under ~~those chapters~~ them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704., 3734., and 6111. of the Revised Code, the applicable rules and standards adopted under ~~those chapters~~ them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that

could result from the irresponsible operation of the facility; For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

- (i) Two thousand feet of any residence, school, hospital, jail, or prison;
- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood ~~or that procedures will be in effect to remove the waste before flood waters can reach it.~~

Division (D)~~(6)~~(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the ~~board~~ director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)~~(6)~~(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)~~(6)~~(2)(h) of

this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

~~In rendering a decision upon an application for a hazardous waste facility installation and operation permit, the board shall issue a written order and opinion, which shall include the specific findings of fact and conclusions of law that support the board's approval or disapproval of the application.~~

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the board director approves an application for a hazardous waste facility installation and operation permit, as a part of its written order, it the director shall issue the permit, upon such terms and conditions as the board director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

~~(7) Any party adversely affected by an order of the hazardous waste facility board may appeal the order and decision of the board to the court of appeals of Franklin county. An appellant shall file with the board a notice of appeal, which shall designate the order appealed from. A copy of the notice also shall be filed by the appellant with the court, and a copy shall be sent by certified mail to each party to the adjudication hearing before the board. Such notices shall be filed and mailed within thirty days after the date upon which the appellant received notice from the board by certified mail of the making of the order appealed from. No appeal bond shall be required to make an appeal effective.~~

~~The filing of a notice of appeal shall not operate automatically as a suspension of the order of the board. If it appears to the court that an unjust hardship to the appellant will result from the execution of the board's order pending determination of the appeal, the court may grant a suspension of the order and fix its terms.~~

~~Within twenty days after receipt of the notice of appeal, the board shall prepare and file in the court the complete record of proceedings out of which the appeal arises, including any transcript of the testimony and any other evidence that has been submitted before the board. The expense of preparing and transcribing the record shall be taxed as a part of the costs of the appeal. The appellant, other than the state or a political subdivision, an agency of either, or any officer of the appellant acting in the officer's representative capacity, shall provide security for costs satisfactory to the court considering~~

~~the respective interests of the parties and the public interest. Upon demand by a party, the board shall furnish, at the cost of the party requesting it, a copy of the record. If the complete record is not filed within the time provided for in this section, any party may apply to the court to have the case docketed, and the court shall order the record filed.~~

~~In hearing the appeal, the court is confined to the record as certified to it by the board. The court may grant a request for the admission of additional evidence when satisfied that the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the board.~~

~~The court shall affirm the order complained of in the appeal if it finds, upon consideration of the entire record and such additional evidence as the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such findings, it shall reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken by any party to the appeal pursuant to the Rules of Practice of the Supreme Court and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.~~

~~(E)(1) Upon receipt of a completed application, the board shall issue a hazardous waste facility installation and operation permit for a hazardous waste facility subject to the requirements of divisions (D)(6) and (7) of this section and all applicable federal regulations if the facility for which the permit is requested satisfies all of the following:~~

- ~~(a) Was in operation immediately prior to October 9, 1980;~~
- ~~(b) Was in substantial compliance with applicable statutes and rules in effect immediately prior to October 9, 1980, as determined by the director;~~
- ~~(c) Demonstrates to the board that its operations after October 9, 1980, comply with applicable performance standards adopted by the director pursuant to division (D) of section 3734.12 of the Revised Code;~~
- ~~(d) Submits a completed application for a permit under division (C) of this section within six months after October 9, 1980.~~

~~The board shall act on the application within twelve months after October 9, 1980.~~

~~(2) A hazardous waste facility that was in operation immediately prior to October 9, 1980, may continue to operate after that date if it does all of the following:~~

- ~~(a) Complies with performance standards adopted by the director~~

~~pursuant to division (D) of section 3734.12 of the Revised Code;~~

~~(b) Submits a completed application for a hazardous waste installation and operation permit under division (C) of this section within six months after October 9, 1980;~~

~~(c) Obtains the permit under division (D) of this section within twelve months after October 9, 1980.~~

(3) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

~~(4) After the issuance of a hazardous waste facility installation and operation permit by the board, each hazardous waste facility shall be subject to the rules and supervision of the director during the period of its operation, closure, and post-closure care, if applicable.~~

~~(F) Upon approval of the board in accordance with divisions (D) and (E) of this section, the board~~ The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director ~~or to the hazardous waste facility board~~ by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information,

inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent

with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the ~~hazardous waste facility board as described in~~ director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, any modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator shall be classified as a Class 3 modification.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director ~~has jurisdiction to~~ shall approve or disapprove ~~applications an application for Class 1 modifications, Class 2 modifications, and Class 3 modifications not otherwise described in divisions (I)(3)(a) to (d) of this section. The hazardous waste facility board has jurisdiction to approve or disapprove applications for any a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all~~ of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without ~~board~~ the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R.

261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. ~~The director shall transmit to the board requests for Class 3 modifications described in divisions (I)(3)(a) to (d) of this section within two hundred forty days after receiving the requests.~~ Requests for modifications shall be acted upon by the director ~~or the board, as appropriate,~~ in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

For those modification applications for a transfer of a permit to a new owner or operator of a facility, the director also shall determine that, if the transferee owner or operator has been involved in any prior activity involving the transportation, treatment, storage, or disposal of hazardous waste, the transferee owner or operator has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of another state if the transferee owner or operator owns or operates a facility in that state, that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under this chapter and Chapters 3704. and 6111. of the Revised Code, all rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. A permit may be transferred to a new owner or operator only pursuant to a Class 3 permit modification.

As used in division (I)(5) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification ~~that is not described in divisions (I)(3)(a) to (d) of this section~~ within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification ~~that is not described in divisions (I)(3)(a) to (d) of this section~~ is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

~~(7) The hazardous waste facility board shall approve or disapprove an application for a Class 3 modification transmitted to it under division (I)(4) of this section, or that portion of a permit renewal application that constitutes a Class 3 modification application so transmitted, of a hazardous waste facility installation and operation permit in accordance with division (D) of this section. No other request for a modification shall be subject to division (D)(6) of this section. No aspect of a permitted facility or its operations that is not being modified as described in division (I)(3)(a), (b), (c), or (d) of this section shall be subject to review by the board under division (D) of this section.~~

(8) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a

modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to ~~(7)(6)~~ of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with ~~rules adopted under~~ division ~~(K)(I)(5)~~ of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days

after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. ~~The hazardous waste facility board~~ director shall approve or disapprove ~~the an application for a hazardous waste facility installation and operation permit~~ an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the ~~board~~ director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)~~(6)(2)~~(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Sec. 3734.12. The director of environmental protection shall adopt and may amend, suspend, and rescind rules in accordance with Chapter 119. of the Revised Code, which shall be consistent with and equivalent to the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except for rules adopted under divisions (D) and (F) of this section governing solid waste facilities and except as otherwise provided in this chapter, doing all of the following:

(A) Adopting the criteria and procedures established under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, for identifying hazardous waste. The director shall prepare, revise when appropriate, and publish a list of substances or categories of substances identified to be hazardous using the criteria specified in 40 C.F.R. 261, as amended, which shall be composed of at least those substances identified as hazardous pursuant to section 3001(B) of that

act. The director shall not list any waste that the administrator of the United States environmental protection agency delisted or excluded by an amendment to the federal regulations, any waste that the administrator declined to list by publishing a denial of a rulemaking petition or by withdrawal of a proposed listing in the United States federal register after May 18, 1980, or any waste oil or polychlorinated biphenyl not listed by the administrator.

(B) Establishing standards for generators of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping practices that accurately identify the quantities of hazardous waste generated, the constituents that are significant in quantity or in potential harm to human health or safety or the environment, and the disposition of the waste;

(2) Labeling of containers used for storage, transportation, or disposal of hazardous waste to identify the waste accurately;

(3) Use of appropriate containers for hazardous waste;

(4) Providing information on the general chemical composition of hazardous waste to persons transporting, treating, storing, or disposing of the waste;

(5) A manifest system requiring a manifest consistent with that prescribed under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended, requiring a manifest for any hazardous waste transported off the premises where generated and assuring that all hazardous waste that is transported off the premises where generated is designated for treatment, storage, or disposal in facilities for which a permit has been issued or in the other facilities specified in division (F) of section 3734.02 of the Revised Code;

(6) Submission of such reports to the director as the director determines necessary;

(7) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;

(8) Obtainment of a United States environmental protection agency identification number.

(C) Establishing standards for transporters of hazardous waste necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Record-keeping concerning hazardous waste transported, including

source and delivery points;

(2) Submission of such reports to the director as the director determines necessary;

(3) Transportation of only properly labeled waste;

(4) Compliance with the manifest system required by division (B) of this section;

(5) Transportation of hazardous waste only to the treatment, storage, or disposal facility that the shipper designates on the manifest to be a facility holding a permit or another facility specified in division (F) of section 3734.02 of the Revised Code;

(6) Contingency plans to minimize unanticipated damage from transportation of hazardous waste;

(7) Financial responsibility, including, but not limited to, provisions requiring a financial mechanism to cover the costs of spill cleanup and liability for sudden accidental occurrences that result in damage to persons, property, or the environment;

(8) Obtainment of a United States environmental protection agency identification number.

In the case of any hazardous waste that is subject to the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, the rules shall be consistent with that act and regulations adopted under it.

(D) Establishing performance standards for owners and operators of hazardous waste facilities and owners and operators of solid waste facilities, necessary to protect human health or safety or the environment in accordance with this chapter, including, but not limited to, requirements respecting all of the following:

(1) Maintaining records of all hazardous waste that is treated, stored, or disposed of and of the manner in which the waste was treated, stored, or disposed of or records of all solid wastes transferred or disposed of and of the manner in which the wastes were disposed of;

(2) Submission of such reports to the director as the director determines necessary;

(3) Reporting, monitoring, inspection, and, except with respect to solid waste facilities, compliance with the manifest system referred to in division (B) of this section;

(4) Treatment, storage, or disposal of all hazardous waste received by methods, techniques, and practices approved by the director and disposal or transfer of all solid wastes received by methods, techniques, and practices approved by the director;

(5) Location, design, and construction of hazardous waste facilities and location, design, and construction of solid waste facilities;

(6) Contingency plans for effective action to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste and the disposal or transfer of solid wastes;

(7) Ownership, continuity of operation, training for personnel, and financial responsibility, including the filing of closure and post-closure financial assurance, if applicable. No private entity shall be precluded by reason of these requirements from the ownership or operation of facilities providing hazardous waste treatment, storage, or disposal services if the entity can provide assurances of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage, or disposal of specified hazardous waste.

(8) Closure and post-closure care of a hazardous waste facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred;

(9) Establishment of quality control and testing procedures that ensure compliance with the rules adopted under this section;

(10) Obtainment of a United States environmental protection agency identification number for each hazardous waste treatment, storage, or disposal facility;

(11) Trial burns and land treatment demonstrations.

The rules adopted under divisions (D) and (F) of this section pertaining to solid waste facilities do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(E) Governing the issuance, modification, revocation, suspension, withdrawal, and denial of installation and operation permits, draft permits, and transportation certificates of registration;

(F) Specifying information required to be included in applications for hazardous waste facility installation and operation permits and solid waste permits, including, but not limited to, detail plans, specifications, and information respecting all of the following:

(1) The composition, quantities, and concentrations of hazardous waste and solid wastes to be stored, treated, transported, or disposed of and such other information as the director may require regarding the method of operation;

(2) The facility to which the waste will be transported or where it will

be stored, treated, or disposed of;

(3) The closure and post-closure care of a facility where hazardous waste will no longer be treated, stored, or disposed of and of a solid waste facility where solid wastes will no longer be disposed of or transferred.

(G) Establishing procedures ensuring that all information entitled to protection as trade secrets disclosed to the director or the director's authorized representative is not disclosed without the consent of the owner, except that such information may be disclosed, upon request, to authorized representatives of the United States environmental protection agency, or as required by law. As used in this section, "trade secrets" means any formula, plan, pattern, process, tool, mechanism, compound, procedure, production date, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article, trade, or service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(H) Prohibiting the disposal of specified hazardous wastes in this state if the director has determined both of the following:

(1) The potential impacts on human health or safety or the environment are such that disposal of those wastes should not be allowed;

(2) A technically feasible and environmentally sound alternative is reasonably available, either within or outside this state, for processing, recycling, fixation of, neutralization of, or other treatment of those wastes. Such reasonable availability shall not be determined without a consideration of the costs to the generator of implementing the alternatives.

The director shall adopt, and may amend, suspend, or rescind, rules to specify hazardous wastes that shall not be disposed of in accordance with this division. Nothing in this division, either prior to or after adoption of those rules, shall preclude the director ~~or the hazardous waste facility board created in section 3734.05 of the Revised Code~~ from prohibiting the disposal of specified hazardous wastes at particular facilities under the terms or conditions of a permit or ~~preclude the director from prohibiting that disposal~~ by order.

(I)(1)(a) Governing the following that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, when the director determines that such more stringent rules are reasonable in order to protect human health or safety or the environment:

(i) Specific wastes that the director determines, because of their physical, chemical, or biological characteristics, are so extremely hazardous

that the storage, treatment, or disposal of the wastes in compliance with those regulations would present an imminent danger to human health or safety or the environment;

(ii) The use of only properly designed, operated, and approved transfer facilities;

(iii) Preventing illegitimate activities relating to the reuse, recycling, or reclaiming of hazardous waste, including record-keeping, reporting, and manifest requirements.

(b) In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

(i) Geography of the state;

(ii) Geology of the state;

(iii) Hydrogeology of the state;

(iv) Climate of the state;

(v) Engineering and technical feasibility;

(vi) Availability of alternative technologies or methods of storage, treatment, or disposal.

(2) The director may require from generators and transporters of hazardous waste and from owners or operators of treatment, storage, or disposal facilities, the submission of reports in addition to those required under regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, to the extent that such reports contain information that the generator, transporter, or facility owner or operator is required to obtain in order to comply with the regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, or to the extent that such reports are required by the director to meet the requirements of division (B)(7), (D)(9), or (H) of this section or section 3734.121 of the Revised Code.

(J) Governing the storage, treatment, or disposal of hazardous waste in, and the permitting, design, construction, operation, monitoring, inspection, closure, and post-closure care of, hazardous waste underground injection wells, surface impoundments, waste piles other than those composed of materials removed from the ground as part of coal or mineral extraction or cleaning processes, land treatment facilities, thermal treatment facilities, and landfills that may be more stringent than the regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, whenever the director reasonably determines

that federal regulations will not adequately protect the public health or safety or the environment of this state with respect to the subject matter of the more stringent rules. Such more stringent rules shall be developed to achieve a degree of protection, as determined by the director, consistent with the degree of hazard potentially posed by the various wastes or categories of wastes to be treated, stored, or disposed of and the types of facilities at which they are to be treated, stored, or disposed of. In adopting such more stringent rules, the director shall give consideration to and base the rules on evidence concerning factors including, but not limited to, the following insofar as pertinent:

- (1) Geography of the state;
- (2) Geology of the state;
- (3) Hydrogeology of the state;
- (4) Climate of the state;
- (5) Engineering and technical feasibility;
- (6) Availability of alternative technologies or methods of storage, treatment, or disposal.

(K) Establishing performance standards and other requirements necessary to protect public health and the environment from hazards associated with used oil, including, without limitation, standards and requirements respecting all of the following:

- (1) Material that is subject to regulation as used oil;
- (2) Generation of used oil;
- (3) Used oil collection centers and aggregation points;
- (4) Transportation of used oil;
- (5) Processing and re-refining of used oil;
- (6) Burning of used oil;
- (7) Marketing of used oil;
- (8) Disposal of used oil;
- (9) Use of used oil as a dust suppressant.

Sec. 3734.123. (A) As used in this section and section 3734.124 of the Revised Code, "commercial hazardous waste incinerator" means an enclosed device that treats hazardous waste by means of controlled flame combustion and that accepts for treatment hazardous waste that is generated off the premises on which the device is located by any person other than the one who owns or operates the device or one who controls, is controlled by, or is under common control with the person who owns or operates the device. "Commercial hazardous waste incinerator" does not include any "boiler" or "industrial furnace" as those terms are defined in rules adopted under section 3734.12 of the Revised Code.

(B) Not sooner than three years after April 15, 1993, and triennially thereafter, the director of environmental protection shall prepare, publish, and issue as a final action an assessment of commercial hazardous waste incinerator capacity in this state. However, after the issuance as a final action of a determination under division (A) of section 3734.124 of the Revised Code that terminates the restrictions established in division (C) of this section, the director shall cease preparing, publishing, and issuing the periodic assessments required under this division. The assessment shall determine the amount of commercial hazardous waste incinerator capacity needed to manage the hazardous waste expected to be generated in this state and imported into this state for incineration at commercial hazardous waste incinerators during the next succeeding twenty calendar years. The assessment shall include at least all of the following:

(1) A determination of the aggregate treatment capacity authorized at commercial hazardous waste incinerators located in this state;

(2) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(3) A determination of the quantity of hazardous waste generated outside this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated outside this state that will be treated at those facilities;

(4) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located outside this state, and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(5) The amount of commercial hazardous waste incinerator capacity that the director reasonably anticipates will be needed during the first three years of the planning period to treat hazardous waste generated from the remediation of sites in this state that are on the national priority list required under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a result of corrective actions implemented under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and as a result of clean-up activities conducted at sites listed on the master sites list prepared by the environmental protection agency;

(6) Based upon available data, provided that the data are reliable and are compatible with the data base of the environmental protection agency, an identification of any hazardous waste first listed as a hazardous waste in

regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after April 15, 1993, and of any hazardous waste that has been proposed for such listing by publication of a notice in the federal register on or before December 1 of the year immediately preceding the triennial assessment;

(7) An analysis of other factors that may result in capacity changes over the period addressed by the assessment.

(C) Except as otherwise provided in section 3734.124 of the Revised Code, none of the following shall occur on or after April 15, 1993:

(1) The director shall not do any of the following:

(a) ~~Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, as applicable, transmit to the hazardous waste facility board created in that section any application for a~~ Issue any hazardous waste facility installation and operation permit under division (D) of section 3734.05 of the Revised Code for the establishment of a new commercial hazardous waste incinerator, or ~~any request for a modification, as described in divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, of an existing commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it, for which the staff of the environmental protection agency has made a preliminary determination as to whether the application or request appears to comply with the rules and standards set forth under divisions (D), (I), and (J) of section 3734.12 of the Revised Code;~~

~~(b)~~ Issue issue any modified hazardous waste facility installation and operation permit under division (I)(5) of ~~that~~ section 3734.05 of the Revised Code that would authorize an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;

~~(e)~~ (b) Issue any permit pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or the modification of such an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. Upon determining that an application for any permit pertains to the establishment, modification, or operation of any appurtenant facility or equipment, the director shall cease

reviewing the application and return the application and accompanying materials to the applicant along with a written notice that division (C)(1)(~~e~~)(b) of this section precludes the director from reviewing and acting upon the application.

~~(d)~~(c) Issue any exemption order under division (G) of section 3734.02 of the Revised Code exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing facility to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from divisions (C)(1)(a); or (b), ~~or (e)~~ or (C)(2) ~~or (3)~~ of this section.

~~(2) The staff of the environmental protection agency shall not take any action under division (D)(3) of section 3734.05 of the Revised Code to review, or to make a preliminary determination of compliance with the rules and standards set forth in divisions (D), (I), and (J) of section 3734.12 of the Revised Code regarding, any~~ If the director determines that an application for a hazardous waste facility installation and operation permit submitted under division (D)(3) of section 3734.05 of the Revised Code ~~that~~ pertains to the establishment of a new commercial hazardous waste incinerator, or ~~any~~ a request for a modification of an existing incinerator submitted under division (I)(4) of that section ~~to modify an existing incinerator~~ pertains to an increase of either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. ~~Upon determining that an application or request submitted under those divisions pertains to the establishment of a new commercial hazardous waste incinerator or the modification of an existing incinerator, the staff of the agency~~ director shall cease reviewing the application or request and shall return it and the accompanying materials to the applicant along with a written notice that division (C)(2) of this section precludes the ~~staff from reviewing or making any preliminary determination of compliance regarding review of~~ the application or request.

~~(3) The hazardous waste facility board created in section 3734.05 of the Revised Code shall not do either of the following:~~

~~(a) Approve any application for a hazardous waste facility installation and operation permit, or issue any permit, under divisions (D) and (F) of section 3734.05 of the Revised Code that authorizes the establishment and operation of a new commercial hazardous waste incinerator;~~

~~(b) Approve any request to modify an existing commercial hazardous waste incinerator under divisions (D) and (I)(7) of section 3734.05 of the~~

~~Revised Code that authorizes an increase in either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it.~~

Sec. 3734.124. (A) Promptly after issuing a periodic assessment under division (B) of section 3734.123 of the Revised Code, the director of environmental protection shall make a determination as to whether it is necessary or appropriate to continue the restrictions established in division (C) of section 3734.123 of the Revised Code during the period of time between the issuance of the assessment and the issuance of the next succeeding periodic assessment or as to whether it is necessary or appropriate to terminate the restrictions. The director shall consider all of the following when making a determination under this division:

- (1) The findings of the assessment;
- (2) The findings of an evaluation conducted by the director, in consultation with the chairperson of the state emergency response commission created in section 3750.02 of the Revised Code, regarding the capability of this state to respond to the types and frequencies of releases of hazardous waste that are likely to occur at commercial hazardous waste incinerators;
- (3) The effect that a new commercial hazardous waste incinerator may have on ambient air quality in this state;
- (4) The findings of a review of relevant information regarding the impacts of commercial hazardous waste incinerators on human health and the environment, such as health studies and risk assessments;
- (5) The findings of a review of the operational records of commercial hazardous waste incinerators operating in this state;
- (6) The findings of any review of relevant information concerning the following:
 - (a) The cost of and access to commercial hazardous waste incinerator capacity;
 - (b) The length of time and the regulatory review process necessary to fully permit a commercial hazardous waste incinerator;
 - (c) Access to long-term capital investment to fund the building of a commercial hazardous waste incinerator in this state;
 - (d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate.
- (7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993.

If, after considering all of the information and concerns that the director is required to consider under divisions (A)(1) to (7) of this section, the director determines that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code in order to protect human health or safety or the environment, the director shall issue as a final action a written determination to that effect. If the director determines that it is necessary or appropriate for those purposes to continue the restrictions until the issuance of the next succeeding periodic assessment under division (B) of section 3734.123 of the Revised Code, the director shall issue as a final action a written determination to that effect. After the issuance as a final action of a determination under this division that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code, the director shall cease making the periodic determinations required under this division.

(B) Beginning three years after April 15, 1993, but only on and after the date of issuance as final actions of an assessment under division (B) of section 3734.123 of the Revised Code and a determination under division (A) of this section that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code, ~~any of the following may occur:~~

~~(1) The~~ the director may do any of the following:

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, as applicable, transmit to the hazardous waste facility board created in that section an application for a hazardous waste facility installation and operation permit that pertains to the establishment of a new commercial hazardous waste incinerator, or a request for a modification, as described in divisions (I)(3)(a) to (d) of section 3734.05 of the Revised Code, of a commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it, for which the staff of the environmental protection agency has made a preliminary determination as to whether the application or request appears to comply with the rules and standards set forth under divisions (D), (I), and (K) of section 3734.05 of the Revised Code;~~

~~(b) To the extent otherwise authorized in division (I)(5) of section 3734.05 of the Revised Code, issue a modified hazardous waste facility installation and operation permit under that division that authorizes an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;~~

~~(e)(1)~~ To the extent otherwise authorized thereunder, issue any permit

pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;

~~(d)~~(2) To the extent otherwise authorized in division (G) of section 3734.02 of the Revised Code, issue an order exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from division (C)(1)(a); or (b); ~~or (e)~~ or (C)(2) ~~or (3)~~ of section 3734.123 of the Revised Code.

~~(2) The staff of the environmental protection agency may do both of the following:~~

~~(a) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, review an application for a hazardous waste facility installation and operation permit to establish a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;~~

~~(b) Pursuant to division (D)(3) or (I)(4) of section 3734.05 of the Revised Code, make a preliminary determination as to whether an application for a hazardous waste facility permit to install and operate a new commercial hazardous waste incinerator or a request to modify an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it appears to comply with the rules and performance standards set forth under divisions (D), (I), and (J) of section 3734.12 of the Revised Code.~~

~~(3) The hazardous waste facility board may do both of the following:~~

~~(a) Approve or disapprove an application for a hazardous waste facility installation and operation permit, and issue a permit, under divisions~~ division (D) and (F) of section 3734.05 of the Revised Code for a new commercial hazardous waste incinerator;

~~(b) Under divisions (D) and (I)(7) of that section, approve~~ (4) Approve

or disapprove under division (I) of section 3734.05 of the Revised Code a request to modify the permit of an existing commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it.

Sec. 3734.18. (A) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which ~~the hazardous waste facility board has issued a hazardous waste facility installation and operation permit or the director of environmental protection has issued a renewal of a permit pursuant to section 3734.05 of the Revised Code~~ has been issued under this chapter:

(1) For disposal facilities that are off-site facilities as defined in division (E) of section 3734.02 of the Revised Code, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, as defined in division (E) of section 3734.02 of the Revised Code, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty thousand dollars, and the maximum annual fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by deep well injection is one hundred thousand dollars. The maximum annual disposal fee for a satellite facility that disposes of one hundred thousand tons or less of hazardous waste in a year is thirty-seven thousand five hundred dollars, and the maximum annual disposal fee for a satellite facility that disposes of more than one hundred thousand tons of hazardous waste in a year is seventy-five thousand dollars, except that a satellite facility defined under division (E)(3)(b) of section 3734.02 of the Revised Code that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The owner or operator shall pay the fee to the director each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of

that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that it is late.

(B) There are hereby levied fees at the rate of two dollars per ton on hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities, as defined in division (E) of section 3734.02 of the Revised Code, to which ~~the hazardous waste facility board has issued a hazardous waste facility installation and operation permit or the director renewal of a permit~~ has been issued a renewal permit under this chapter, or that are not subject to the hazardous waste facility installation and operation permit requirements under rules adopted by the director.

(C) There are hereby levied additional fees on the treatment and disposal of hazardous waste at the rate of ten per cent of the applicable fees prescribed in division (A) or (B) of this section for the purposes of paying the costs of municipal corporations and counties for conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively

for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs within the municipal corporation through employees of the municipal corporation or pursuant to contracts entered into with persons or political subdivisions. Moneys received by a board of county commissioners under this division shall be paid into a special fund of the county and used exclusively for those purposes within the unincorporated area of the county through employees of the county or pursuant to contracts entered into with persons or political subdivisions.

(D) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (B) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(E) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (A) and (B) of this section into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code, to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (A)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency ~~and the hazardous waste facility board~~ may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board for that use on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on

any loans made by the Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund.

Until September 28, 1996, the director also may use moneys in the fund to pay the start-up costs of administering Chapter 3746. of the Revised Code.

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency in accordance with this section, the controlling board shall approve the expenditure.

Sec. 3734.28. All moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and natural resource damages collected by the state under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, and, through ~~June 30, 2003~~ October 15, 2005, divisions (A)(1) and (2) of section 3745.12 and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

Sec. 3734.42. (A)(1) Except as otherwise provided in division (E)(2) of this section, every applicant for a permit other than a permit modification or renewal shall file a disclosure statement, on a form developed by the attorney general, with the director of environmental protection and the attorney general at the same time the applicant files an application for a permit other than a permit modification or renewal with the director.

(2) Any individual required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance

with procedures established by the attorney general. An individual required to be fingerprinted under this section shall not be required to be fingerprinted more than once under this section.

(3) The attorney general, within one hundred eighty days after receipt of the disclosure statement from an applicant for a permit, shall prepare and transmit to the director an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the director or the attorney general. In preparing this report, the attorney general may request and receive criminal history information from the federal bureau of investigation and any other law enforcement agency or organization. The attorney general may provide such confidentiality regarding the information received from a law enforcement agency as may be imposed by that agency as a condition for providing that information to the attorney general.

(4) The review of the application by the director ~~or the hazardous waste facility board~~ shall include a review of the disclosure statement and investigative report.

(B) All applicants and permittees shall provide any assistance or information requested by the director or the attorney general and shall cooperate in any inquiry or investigation conducted by the attorney general and any inquiry, investigation, or hearing conducted by the director ~~or the hazardous waste facility board~~. If, upon issuance of a formal request to answer any inquiry or produce information, evidence, or testimony, any applicant or permittee, any officer, director, or partner of any business concern, or any key employee of the applicant or permittee refuses to comply, the permit of the applicant or permittee may be denied or revoked by the director ~~or the board~~.

(C) The attorney general may charge and collect such fees from applicants and permittees as are necessary to cover the costs of administering and enforcing the investigative procedures authorized in sections 3734.41 to 3734.47 of the Revised Code. The attorney general shall transmit moneys collected under this division to the treasurer of state to be credited to the solid and hazardous waste background investigations fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for paying the attorney general's costs of administering and enforcing the investigative procedures authorized in sections 3734.41 to 3734.47 of the Revised Code.

(D) Annually on the anniversary date of the submission to the director by the attorney general of the investigative report for a specific facility, or annually on another date assigned by the attorney general, the appropriate

applicant, permittee, or prospective owner shall submit to the attorney general, on a form provided by the attorney general, any and all information required to be included in a disclosure statement that has changed or been added in the immediately preceding year. If, in the immediately preceding year, there have been no changes in or additions to the information required to be included in a disclosure statement, the appropriate applicant, permittee, or prospective owner shall submit to the attorney general an affidavit stating that there have been no changes in or additions to that information during that time period.

Notwithstanding the requirement for an annual submission of information, the following information shall be submitted within the periods specified:

(1) Information required to be included in the disclosure statement for any new officer, director, partner, or key employee, to be submitted within ninety days from the addition of the officer, director, partner, or key employee;

(2) Information required to be included in a disclosure statement for any new business concern, to be submitted within ninety days from the addition of the new business concern;

(3) Information regarding any new criminal conviction, to be submitted within ninety days from the judgment entry of conviction.

The failure to provide such information may constitute the basis for the revocation or denial of renewal of any permit or license issued in accordance with this chapter, provided that prior to any such denial or revocation, the director shall notify the applicant or permittee of the director's intention to do so and give the applicant or permittee fourteen days from the date of the notice to explain why the information was not provided. The director shall consider this information when determining whether to revoke or deny the permit or license.

Nothing in this division affects the rights of the director or the attorney general granted under sections 3734.40 to 3734.47 of the Revised Code to request information from a person at any other time.

(E)(1) Except as otherwise provided in division (E)(2) of this section, every permittee who is not otherwise required to file a disclosure statement shall file a disclosure statement within five years after June 24, 1988, pursuant to a schedule for submissions of disclosure statements developed by the attorney general. The schedule shall provide all permittees and holders of a license with at least one hundred eighty days' notice prior to the date upon which the statement is to be submitted. All other terms of the schedule shall be established at the discretion of the attorney general and

shall not be subject to judicial review.

(2) An applicant for a permit for an off-site solid waste facility that is a scrap tire storage, monocell, monofill, or recovery facility issued under section 3734.76, 3734.77, or 3734.78 of the Revised Code, as applicable, shall file a disclosure statement within five years after October 29, 1993, pursuant to a schedule for submissions of disclosure statements developed by the attorney general. The schedule shall provide all such applicants with at least one hundred eighty days' notice prior to the date upon which the statement shall be submitted. All other terms of the schedule shall be established at the discretion of the attorney general and shall not be subject to judicial review.

Beginning five years after October 29, 1993, an applicant for such a permit shall file a disclosure statement in accordance with division (A)(1) of this section.

(3) When a permittee submits a disclosure statement at the time it submits an application for a renewal or modification of its permit, the attorney general shall remove the permittee from the submission schedule established pursuant to division (E)(1) or (2) of this section.

(4) After receiving a disclosure statement under division (E)(1) or (2) of this section, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director may revoke any previously issued permit pursuant to section 3734.45 of the Revised Code, or the director shall deny any application for a renewal of a permit or license. When the renewal of the license is being performed by a board of health, the director shall instruct the board of health about those circumstances under which the renewal is required to be denied by this section.

(F)(1) Whenever there is a change in ownership of any off-site solid waste facility, including incinerators, any transfer facility, any off-site infectious waste treatment facility, or any off-site hazardous waste treatment, storage, or disposal facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. Upon receipt of the disclosure statement, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the

statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director shall disapprove the change in ownership.

(2) If the parties to a change in ownership decide to proceed with the change prior to the action of the director on the disclosure statement and investigative report, the parties shall include in all contracts or other documents reflecting the change in ownership language expressly making the change in ownership subject to the approval of the director and expressly negating the change if it is disapproved by the director pursuant to division (F)(1) of this section.

(3) As used in this section, "change in ownership" includes any change in the names, other than those of officers, directors, partners, or key employees, contained in the disclosure statement.

Sec. 3734.44. Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection, ~~the hazardous waste facility board~~, or a board of health:

(A) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence;

(B) If any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;

- (7) Criminal usury;
 - (8) Arson;
 - (9) Burglary;
 - (10) Theft and related crimes;
 - (11) Forgery and fraudulent practices;
 - (12) Fraud in the offering, sale, or purchase of securities;
 - (13) Alteration of motor vehicle identification numbers;
 - (14) Unlawful manufacture, purchase, use, or transfer of firearms;
 - (15) Unlawful possession or use of destructive devices or explosives;
 - (16) Violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;
 - (17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;
 - (18) Violation of criminal provisions of Chapter 1331. of the Revised Code;
 - (19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;
 - (20) Violation of Chapter 2909. of the Revised Code;
 - (21) Any offense specified in Chapter 2921. of the Revised Code.
- (C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a post-release control sanction imposed under section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to the effective date of this amendment. In determining whether an applicant has affirmatively demonstrated rehabilitation, the

director, ~~the hazardous waste facility board~~, or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

(1) The nature and responsibilities of the position a convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions that may have contributed to the offense;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision;

(9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.

(D) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions;

(E) With respect to the approval of a permit, if the director ~~or the hazardous waste facility board~~ determines that current prosecutions or pending charges in any jurisdiction for any of the offenses enumerated in division (B) of this section against any individual or business concern required to be listed in the disclosure statement or shown by the

investigation to have a beneficial interest in the business of the applicant other than an equity interest or debt liability are of such magnitude that they prevent making the finding required under division (A) of this section, provided that at the request of the applicant or the individual or business concern charged, the director ~~or the hazardous waste facility board~~ shall defer decision upon the application during the pendency of the charge.

Sec. 3734.46. Notwithstanding the disqualification of the applicant or permittee pursuant to this chapter, the director of environmental protection; ~~hazardous waste facility board~~, or the board of health may issue or renew a permit or license if the applicant or permittee severs the interest of or affiliation with the individual or business concern that would otherwise cause that disqualification or may issue or renew a license on a temporary basis for a period not to exceed six months if the director or the board of health determines that the issuance or renewal of the permit or license is necessitated by the public interest.

Sec. 3734.57. (A) For the purposes of paying the state's long-term operation costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; paying the costs of measures for proper clean-up of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of; paying the costs of conducting surveys or investigations of solid waste facilities or other locations where it is believed that significant quantities of hazardous waste were disposed of and for conducting enforcement actions arising from the findings of such surveys or investigations; paying the costs of acquiring and cleaning up, or providing financial assistance for cleaning up, any hazardous waste facility or solid waste facility containing significant quantities of hazardous waste, that constitutes an imminent and substantial threat to public health or safety or the environment; and, from July 1, ~~2004~~ 2003, through June 30, ~~2004~~ 2006, for the purposes of paying the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code, the following fees are hereby levied on the disposal of solid wastes in this state:

- (1) One dollar per ton on and after July 1, 1993;

(2) An additional ~~seventy-five cents~~ one dollar per ton on and after July 1, ~~2001~~ 2003, through June 30, ~~2004~~ 2006.

The owner or operator of a solid waste disposal facility shall collect the fees levied under this division as a trustee for the state and shall prepare and file with the director of environmental protection monthly returns indicating the total tonnage of solid wastes received for disposal at the gate of the facility and the total amount of the fees collected under this division. Not later than thirty days after the last day of the month to which such a return applies, the owner or operator shall mail to the director the return for that month together with the fees collected during that month as indicated on the return. The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within sixty days after the last day of the month during which they were collected, the owner or operator shall pay an additional fifty per cent of the amount of the fees for each month that they are late.

One-half of the moneys remitted to the director under division (A)(1) of this section shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, and one-half shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code. The moneys remitted to the director under division (A)(2) of this section shall be credited to the solid waste fund, which is hereby created in the state treasury. The environmental protection agency shall use moneys in the solid waste fund only to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and rules adopted under them and to pay a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be added to any other fee or amount specified in a contract that is charged by the owner or operator of a solid waste disposal facility or to any other fee or amount that is specified in a contract entered into on or after March 4, 1992, and that is charged by a transporter of solid wastes.

(B) For the purpose of preparing, revising, and implementing the solid waste management plan of the county or joint solid waste management district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section, the solid waste management policy committee of a county or joint solid waste management

district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

If any such fees are levied prior to January 1, 1994, fees levied under division (B)(1) of this section always shall be equal to one-half of the fees levied under division (B)(2) of this section, and fees levied under division (B)(3) of this section, which shall be in addition to fees levied under division (B)(2) of this section, always shall be equal to fees levied under division (B)(1) of this section, except as otherwise provided in this division. The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. Although the fees under divisions (A)(1) and (2) of this section are levied on the basis of tons as the unit of measurement, the solid waste management plan of the district and any amendments to it or the solid waste management policy committee in its resolution levying fees under this division may direct that the fees levied under those divisions be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes if the fees under divisions (B)(1) to (3) of this section are being levied on the basis of cubic yards as the unit of measurement under the plan, amended plan, or resolution.

On and after January 1, 1994, the fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section, except as otherwise provided in this division and notwithstanding any schedule of those fees established in the solid waste management plan of a county or joint district approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that is in effect on that date. If the fee that a district is

levying under division (B)(1) of this section on that date under its approved plan or such a resolution is less than one dollar per ton, the fee shall be one dollar per ton on and after January 1, 1994, and if the fee that a district is so levying under that division exceeds two dollars per ton, the fee shall be two dollars per ton on and after that date. If the fee that a district is so levying under division (B)(2) of this section is less than two dollars per ton, the fee shall be two dollars per ton on and after that date, and if the fee that the district is so levying under that division exceeds four dollars per ton, the fee shall be four dollars per ton on and after that date. On that date, the fee levied by a district under division (B)(3) of this section shall be equal to the fee levied under division (B)(1) of this section. Except as otherwise provided in this division, the fees established by the operation of this amendment shall remain in effect until the district's resolution levying fees under this division is amended or repealed in accordance with this division to amend or abolish the schedule of fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.

The solid waste management policy committee of a district levying fees under divisions (B)(1) to (3) of this section on October 29, 1993, under its solid waste management plan approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that are within the ranges of rates prescribed by this amendment, by adoption of a resolution not later than December 1, 1993, and without the necessity for ratification of the resolution under this division, may amend those fees within the prescribed ranges, provided that the estimated revenues from the amended fees will not substantially exceed the estimated revenues set forth in the district's budget for calendar year 1994. Not later than seven days after the adoption of such a resolution, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the adoption of the resolution and of the amount of the amended fees. Collection of the amended fees shall take effect on the first day of the first month following the month in which the notification is sent to the owner or operator. The fees established in such a resolution shall remain in effect until the district's resolution levying fees

that was adopted and ratified under this division is amended or repealed, and the amendment or repeal of the resolution is ratified, in accordance with this division, to amend or abolish the fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.

Prior to the approval of the solid waste management plan of the district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or

disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees.

In the case of a county district or a joint district formed by two or three counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the district upon determining that the board of county commissioners of each county forming the district has approved the proposed revised fees and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the proposed revised fees, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.

For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the

municipal corporation resides.

The committee may amend the schedule of fees levied pursuant to a resolution or amended resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may abolish the fees levied pursuant to such a resolution or amended resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the fees or amended fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees. Collection of any fees or amended fees ratified on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees levied by the district, or the ratification of an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees, as appropriate, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees or amended fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that establishes or amends a schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the

amount of the fees or amended fees. Collection of any fees set forth in a plan or amended plan approved by the director on or after April 16, 1993, or an amendment of a plan or amended plan under division (E) of section 3734.56 of the Revised Code that is ratified on or after April 16, 1993, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after the director issues an order approving a district's plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section, or an amendment to the district's approved plan or amended plan abolishing the schedule of fees is ratified pursuant to division (E) of section 3734.56 of the Revised Code, as appropriate, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the approval of the plan or amended plan, or the amendment of the plan or amended plan, as appropriate, and the abolishment of the fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the abolishment of the fees. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Except as otherwise provided in this division, if the schedule of fees that a district is levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of the district approved under section 3734.55 of the Revised Code, an amended plan approved under division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, is amended by the adoption and ratification of an amendment to the resolution or amended resolution or an amendment of the district's approved plan or amended plan, the fees in effect immediately prior to the approval of the plan or the amendment of the resolution, amended resolution, plan, or amended plan, as appropriate, shall continue to be collected until collection of the amended fees commences pursuant to this

division.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the abolishment of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan abolishes a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the abolishment of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan abolishes a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

In the case of a change in district composition, the schedule of fees that the former districts that existed prior to the change were levying under

divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of a former district approved under section 3734.521 or 3734.55 of the Revised Code, an amended plan approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to a former district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, and that were in effect on the date that the director completed the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code shall continue to be collected until the collection of the fees or amended fees of the districts resulting from the change is required to commence, or if an initial or amended plan of a resulting district abolishes a schedule of fees, collection of the fees is required to cease, under this division. Moneys so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or abolished is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the

board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after

burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the

township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the

district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations or to the clerks of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section. Collection of the fees levied under division (A)(1) of this section shall commence on July 1, 1993. Collection of the fees levied under division (A)(2) of this section shall commence on January 1, 1994.

Sec. 3735.27. (A) Whenever the director of development has determined that there is need for a housing authority in any portion of any county that comprises two or more political subdivisions or portions ~~thereof~~ of two or more political subdivisions but is less than all the territory within the county, a metropolitan housing authority shall be declared to exist, and the territorial limits ~~thereof~~ of the authority shall be defined, by a letter from the director. The director shall issue a determination from the department of development declaring that there is need for a housing authority within ~~such~~ those territorial limits after finding either of the following:

(1) Unsanitary or unsafe inhabited housing accommodations exist in ~~such~~ that area;

(2) There is a shortage of safe and sanitary housing accommodations in ~~such~~ that area available to persons who lack the amount of income ~~which~~ that is necessary, as determined by the director, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without congestion.

In determining whether dwelling accommodations are unsafe or unsanitary, the director may take into consideration the degree of

congestion, the percentage of land coverage, the light, air, space, and access available to the inhabitants of ~~such the~~ dwelling accommodations, the size and arrangement of ~~the~~ rooms, the sanitary facilities, and the extent to which conditions exist in ~~such buildings which~~ the dwelling accommodations that endanger life or property by fire or other causes.

The territorial limits of a metropolitan housing authority, as defined by the director, under this division shall be fixed for ~~such the~~ authority upon proof of a letter from the director declaring the need for ~~such the~~ authority to function in those territorial limits. Any such letter from the director, any certificate of determination issued by the director, and any certificate of appointment of members of the authority shall be admissible in evidence in any suit, action, or proceeding.

A certified copy of the letter from the director, declaring the existence of a metropolitan housing authority and ~~boundaries~~ the territorial limits of a housing authority its district, shall be immediately forwarded to each appointing authority. A metropolitan housing authority shall consist of ~~five~~ members, who ~~shall be~~ are residents of the territory ~~embraced in such metropolitan housing authority district which they serve.~~

(B) Except as otherwise provided in division (C), ~~(D), or (E)~~ of this section, one member shall be appointed by the probate court, one member by the court of common pleas, one member by the board of county commissioners, and two members by the chief executive officer of the most populous city in the ~~territory included in the~~ district, in accordance with the last preceding federal census. At the time of the initial appointment of the authority, the member appointed by the probate court shall be appointed for a period of four years, the ~~appointee of~~ member appointed by the court of common pleas shall be appointed for three years, the ~~appointee of~~ member appointed by the board of county commissioners shall be appointed for two years, one ~~appointee of the~~ member appointed by the chief executive officer of the most populous city in the district shall be appointed for one year, and ~~one appointee of the other member appointed by the~~ member appointed by the chief executive officer of the most populous city in the district shall be appointed for five years. Thereafter, all members of the authority shall be appointed for five-year terms, and vacancies due to expired terms shall be filled ~~by the same appointing powers in the manner provided in the original appointments.~~

(C) For any metropolitan housing authority district that contained, as of the 1990 federal census, a population of at least one million, two members of the authority shall be appointed by the ~~municipal~~ legislative authority of the most populous city in the ~~territory included in the~~ district, two members shall be appointed by the chief executive officer of the most populous city in

the ~~territory included in the~~ district, and one member shall be appointed by the chief executive officer, with the approval of the ~~municipal~~ legislative authority, of the city in the district ~~which~~ that has the second highest number of housing units owned or managed by the authority.

At the time of the initial appointment of the authority, one member appointed by the ~~municipal~~ legislative authority of the most populous city in the ~~territory included in the~~ district shall be appointed for three years, and one such member shall be appointed for one year; the ~~appointee of member~~ appointed by the chief executive officer of the city with the second highest number of housing units owned or managed by the authority shall be appointed, with the approval of the ~~municipal~~ legislative authority, for three years; ~~and one appointee of member appointed by~~ the chief executive officer of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year. Thereafter, all members of the authority shall be appointed for three-year terms, and any vacancy shall be filled by the same appointing power that made the initial appointment. At the expiration of the term of any member appointed by the chief executive officer of the most populous city in the ~~territory included in the~~ district prior to March 15, 1983, the chief executive officer of the most populous city in the district shall fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed by the board of county commissioners prior to March 15, 1983, the chief executive officer of the city in the district with the second highest number of housing units owned or managed by the authority shall, with the approval of the municipal legislative authority, fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed prior to March 15, 1983, by the court of common pleas or the probate court, the legislative authority of the most populous city in the ~~territory included in the~~ district shall fill the vacancy by appointment for a three-year term.

After March 15, 1983, at least one of the members appointed by the chief executive officer of the most populous city shall be a resident of a dwelling unit owned or managed by the ~~housing~~ authority. At least one of the initial appointments by the chief executive officer of the most populous city, after March 15, 1983, shall be a resident of a dwelling unit owned or managed by the ~~housing~~ authority. Thereafter, any member appointed by the chief executive officer of the most populous city for the term established by this initial appointment, or for any succeeding term ~~thereof~~, shall be a person who resides in a dwelling unit owned or managed by the ~~housing~~ authority. If there is an elected, representative body of all residents of the ~~housing~~ authority, ~~then~~ the chief executive officer of the most populous city

shall, whenever there is a vacancy in this resident term, provide written notice of the vacancy to the representative body. If the representative body submits to the chief executive officer of the most populous city, in writing and within sixty days after the date on which it was notified of the vacancy, the names of at least five residents of the ~~housing~~ authority who are willing and qualified to serve as a member, ~~then~~ the chief executive officer of the most populous city shall appoint to the resident term one of the residents recommended by the representative body. At no time shall residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district located in a county that had, as of the 2000 federal census, a population of at least four hundred thousand and no city with a population greater than thirty per cent of the total population of the county, one member of the authority shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the chief executive officer of the most populous city in the district, and two members shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan housing authority pursuant to this division, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the chief executive officer of the most populous city shall be appointed for two years, one member appointed by the board of county commissioners shall be appointed for one year, and the other member appointed by the board of county commissioners shall be appointed for five years. Thereafter, all members of the authority shall be appointed for five-year terms, with each term ending on the same day of the same month as the term that it succeeds. Vacancies shall be filled in the manner provided in the original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term shall hold office as a member for the remainder of that term.

(E)(1) An additional two members shall be appointed to the metropolitan housing authority in any district that has three hundred or more assisted housing units and that does not have at least one resident as a member of its authority. For the purposes of this section an "assisted unit" is a housing unit owned or operated by the housing authority or a unit in which the occupants receive tenant-based housing assistance through the federal section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is a person who lives in an assisted housing unit.

(2) The chief executive officer of the most populous city in the district

shall appoint an additional member who is a resident for an initial term of five years. The board of county commissioners shall appoint the other additional member, who need not be a resident, for an initial term of three years. After the initial term, the terms of both members shall be five years and vacancies shall be filled in the manner provided in the original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term.

(3) A member appointed as a resident member who no longer qualifies as a resident shall be deemed unable to serve and another resident member shall be appointed to serve the unexpired portion of that term.

(F) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of ~~the~~ a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of ~~such housing~~ an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred. ~~After such~~

After a metropolitan housing authority district has been is formed, the director may enlarge the territory within ~~such the~~ district to include other political subdivisions, or portions ~~thereof of other political subdivisions~~, but the territorial limits of ~~which the district~~ shall be less than that of the county.

Sec. 3735.66. The legislative authorities of municipal corporations and counties may survey the housing within their jurisdictions and, after the survey, may adopt resolutions describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation regardless of classification. Whether or not the resolution includes such a stipulation, the classification of the structures or remodeling eligible for exemption in the area shall at all times be consistent with zoning restrictions applicable to the area. For the

purposes of sections 3735.65 to 3735.70 of the Revised Code, whether a structure or remodeling composed of multiple units is classified as commercial or residential shall be determined by resolution or ordinance of the legislative authority or, in the absence of such a determination, by the classification of the use of the structure or remodeling under the applicable zoning regulations.

If construction or remodeling classified as residential is eligible for exemption from taxation, the resolution shall specify a percentage, not to exceed one hundred per cent, of the assessed valuation of such property to be exempted. The percentage specified shall apply to all residential construction or remodeling for which exemption is granted.

The resolution adopted pursuant to this section shall be published in a newspaper of general circulation in the municipal corporation, if the resolution is adopted by the legislative authority of a municipal corporation, or in a newspaper of general circulation in the county, if the resolution is adopted by the legislative authority of the county, once a week for two consecutive weeks immediately following its adoption.

Each legislative authority adopting a resolution pursuant to this section shall designate a housing officer. In addition, each such legislative authority, not later than fifteen days after the adoption of the resolution, shall petition the director of development for the director to confirm the findings described in the resolution. The petition shall be accompanied by a copy of the resolution and by a map of the community reinvestment area in sufficient detail to denote the specific boundaries of the area and to indicate zoning restrictions applicable to the area. The director shall determine whether the findings contained in the resolution are valid, and whether the classification of structures or remodeling eligible for exemption under the resolution is consistent with zoning restrictions applicable to the area as indicated on the map. Within thirty days of receiving the petition, the director shall forward ~~his~~ the director's determination to the legislative authority. The legislative authority or housing officer shall not grant any exemption from taxation under section 3735.67 of the Revised Code until the director forwards ~~his~~ the director's determination to the legislative authority. The director shall assign to each community reinvestment area a unique designation by which the area shall be identified for purposes of sections 3735.65 to 3735.70 of the Revised Code.

If zoning restrictions in any part of a community reinvestment area are changed at any time after the legislative authority petitions the director under this section, the legislative authority shall notify the director and shall submit a map of the area indicating the new zoning restrictions in the area.

Sec. 3735.67. (A) The owner of real property located in a community reinvestment area and eligible for exemption from taxation under a resolution adopted pursuant to section 3735.66 of the Revised Code may file an application for an exemption from real property taxation of a percentage of the assessed valuation of a new structure or remodeling, completed after the effective date of the resolution adopted pursuant to section 3735.66 of the Revised Code, with the housing officer designated pursuant to section 3735.66 of the Revised Code for the community reinvestment area in which the property is located. If any part of the new structure or remodeling that would be exempted is of real property to be used for commercial or industrial purposes, the legislative authority and the owner of the property shall enter into a written agreement pursuant to section 3735.671 of the Revised Code prior to commencement of construction or remodeling; if such an agreement is subject to approval by the board of education of the school district within the territory of which the property is or will be located, the agreement shall not be formally approved by the legislative authority until the board of education approves the agreement in the manner prescribed by that section.

(B) The housing officer shall verify the construction of the new structure or the cost of the remodeling and the facts asserted in the application. The housing officer shall determine whether the construction or the cost of the remodeling meets the requirements for an exemption under this section. In cases involving a structure of historical or architectural significance, the housing officer shall not determine whether the remodeling meets the requirements for a tax exemption unless the appropriateness of the remodeling has been certified, in writing, by the society, association, agency, or legislative authority that has designated the structure or by any organization or person authorized, in writing, by such society, association, agency, or legislative authority to certify the appropriateness of the remodeling.

(C) If the construction or remodeling meets the requirements for exemption, the housing officer shall forward the application to the county auditor with a certification as to the division of this section under which the exemption is granted, and the period and percentage of the exemption as determined by the legislative authority pursuant to that division. If the construction or remodeling is of commercial or industrial property and the legislative authority is not required to certify a copy of a resolution under section 3735.671 of the Revised Code, the housing officer shall comply with the notice requirements prescribed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving

its right to receive such a notice.

(D) The tax exemption shall first apply in the year the construction or remodeling would first be taxable but for this section. In the case of remodeling that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the amount by which the remodeling increased the assessed value of the structure shall be exempted from real property taxation. In the case of construction of a structure that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the assessed value of the structure shall be exempted from real property taxation. In either case, the percentage shall be the percentage set forth in the agreement if the structure or remodeling is to be used for commercial or industrial purposes, or the percentage set forth in the resolution describing the community reinvestment area if the structure or remodeling is to be used for residential purposes.

The construction of new structures and the remodeling of existing structures are hereby declared to be a public purpose for which exemptions from real property taxation may be granted for the following periods:

(1) For every dwelling containing not more than two family units located within the same community reinvestment area and upon which the cost of remodeling is at least two thousand five hundred dollars, a period to be determined by the legislative authority adopting the resolution describing the community reinvestment area where the dwelling is located, but not exceeding ten years;

(2) For every dwelling containing more than two units and commercial or industrial properties, located within the same community reinvestment area, upon which the cost of remodeling is at least five thousand dollars, a period to be determined by the legislative authority adopting the resolution, but not exceeding twelve years;

(3) For construction of every dwelling, and commercial or industrial structure located within the same community reinvestment area, a period to be determined by the legislative authority adopting the resolution, but not exceeding fifteen years.

(E) Any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision may file a complaint with the housing officer challenging the continued exemption of any property granted an exemption under this section. A complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which taxation of the property is requested. The housing officer shall determine whether the property continues to meet the requirements for exemption and shall certify the housing officer's findings to the

complainant. If the housing officer determines that the property does not meet the requirements for exemption, the housing officer shall notify the county auditor, who shall correct the tax list and duplicate accordingly.

Sec. 3735.671. (A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A)(2) or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of obtaining such approval, the legislative authority shall certify a copy of the agreement to the board of education not later than forty-five days prior to approving the agreement, excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from

taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or remodeling that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to be the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift, loan, or otherwise, and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division (A)(2) of this section shall be estimated by the legislative authority. The legislative authority shall certify to the board of education that the estimates have been made in good faith. Departures of the actual quantities from the estimates subsequent to approval of the agreement by the board of education do not invalidate the agreement.

(3) If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's execution of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such execution as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(B) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the remodeling or construction, whether or not to be exempted from taxation, including existing or new structure size and cost thereof; the value of machinery, equipment, furniture, and fixtures,

including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement; the value of inventory at the property, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of inventory held at the property prior to the execution of the agreement;

(3) The scheduled starting and completion dates of remodeling or construction of real property or of investments made in machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the owner due to the remodeling or construction, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (B)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the property and at any other location in this state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(C) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after (insert date) nor extend beyond (insert date)." ~~The tax commissioner shall adopt rules prescribing the form the description of such property shall assume in order to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.~~

(2) "..... (insert name of owner) shall pay such real property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If (insert name of owner) fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this agreement are rescinded beginning with the year for which such taxes are charged or such

reports or returns are required to be filed and thereafter."

(3) "..... (insert name of owner) hereby certifies that at the time this agreement is executed, ... (insert name of owner) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which (insert name of owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, or, if such delinquent taxes are owed, ... (insert name of owner) currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against (insert name of owner). For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(4) "..... (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(5) "If for any reason (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless (insert name of owner) materially fails to fulfill its obligations under this agreement and (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."

(6) "If (insert name of owner) materially fails to fulfill its obligations under this agreement, or if (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, ... (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(7) "..... (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."

(8) "This agreement is not transferable or assignable without the express, written approval of (insert name of municipal corporation or

county)."

(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(10) "..... (insert name of owner) and (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement."

(D) Except as otherwise provided in this division, an agreement entered into under this section shall require that the owner pay an annual fee equal to the greater of one per cent of the amount of taxes exempted under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 3735.672 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee, but such waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 3735.672 or 5709.85 of the Revised Code.

(E) If any person that is party to an agreement granting an exemption from taxation discontinues operations at the structure to which that exemption applies prior to the expiration of the term of the agreement, that person, any successor to that person, and any related member shall not enter into an agreement under this section or section 5709.62, 5709.63, or 5709.632 of the Revised Code, and no legislative authority shall enter into

such an agreement with such a person, successor, or related member, prior to the expiration of five years after the discontinuation of operations. As used in this division, "successor" means a person to which the assets or equity of another person has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner. "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

The director of development shall review all agreements submitted to the director under division (F) of this section for the purpose of enforcing this division. If the director determines there has been a violation of this division, the director shall notify the legislative authority of such violation, and the legislative authority immediately shall revoke the exemption granted under the agreement.

(F) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development ~~and to the tax commissioner~~ within fifteen days after the agreement is entered into.

Sec. 3737.81. (A) There is hereby created the state fire commission consisting of ten members to be appointed by the governor with the advice and consent of the senate. The fire marshal or chief deputy fire marshal, a representative designated by the department of public safety who has tenure in fire suppression, and a representative designated by the board of building standards shall be ex officio members. Of the initial appointments made to the commission, two shall be for a term ending one year after November 1, 1978, two shall be for a term ending two years after that date, two shall be for a term ending three years after that date, two shall be for a term ending four years after that date, and two shall be for a term ending five years after that date. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. Members shall be qualified by experience and training to deal with the matters that are the responsibility of the commission. Two members shall be members of paid fire services, one shall be a member of volunteer fire services, two shall

be mayors, managers, or members of legislative authorities of municipal corporations, one shall represent commerce and industry, one shall be a representative of a fire insurance company domiciled in this state, one shall represent the flammable liquids industry, one shall represent the construction industry, and one shall represent the public. At no time shall more than six members be members of or associated with the same political party. Membership on the commission shall not constitute holding a public office, and no person shall forfeit or otherwise vacate the person's office or position of employment because of membership on the commission.

(B) The ex officio members may not vote, except that the fire marshal or chief deputy fire marshal may vote in case of a tie.

(C) Each member of the commission, other than ex officio members, shall be paid an amount ~~equal to that payable under pay range 32 (S)(D)~~ fixed pursuant to division (J) of section 124.15 of the Revised Code, and the member's actual and necessary expenses.

(D) The commission shall select a chairperson and a vice-chairperson from among its members. No business may be transacted in the absence of a quorum. A quorum shall be at least six members, excluding ex officio members, and shall include either the chairperson or vice-chairperson. The commission shall hold regular meetings at least once every two months and may meet at any other time at the call of the chairperson.

(E) The fire marshal shall provide the commission with office space, meeting rooms, staff, and clerical assistance necessary for the commission to perform its duties. If the commission maintains the Ohio fire service hall of fame under division (C) of section 3737.03 of the Revised Code, the fire marshal shall preserve, in an appropriate manner, in the office space or meeting rooms provided to the commission under this division or in another location, copies of all official commendations awarded to individuals recognized and commemorated for their exemplary accomplishments and acts of heroism at fire-related incidents or similar events that occurred in this state.

(F) If the commission maintains the Ohio fire service hall of fame under division (C) of section 3737.03 of the Revised Code, the expenses incurred for the recognition and commemoration of individuals for their exemplary accomplishments and acts of heroism at fire-related incidents or similar events that occurred in this state, including, but not limited to, expenses for official commendations and an annual awards ceremony as described in division ~~(C)(B)~~ of section 3737.03 of the Revised Code, may be paid from moneys appropriated by the general assembly for purposes of that recognition and commemoration, from moneys that are available to the fire

marshal under this chapter, or from other funding sources available to the commission.

Sec. 3745.04. As used in this section, "any person" means any individual, any partnership, corporation, association, or other legal entity, or any political subdivision, instrumentality, or agency of a state, whether or not the individual or legal entity is an applicant for or holder of a license, permit, or variance from the environmental protection agency, and includes any department, agency, or instrumentality of the federal government that is an applicant for or holder of a license, permit, or variance from the environmental protection agency.

As used in this section, "action" or "act" includes the adoption, modification, or repeal of a rule or standard, the issuance, modification, or revocation of any lawful order other than an emergency order, and the issuance, denial, modification, or revocation of a license, permit, lease, variance, or certificate, or the approval or disapproval of plans and specifications pursuant to law or rules adopted thereunder.

Any person who was a party to a proceeding before the director of environmental protection may participate in an appeal to the environmental review appeals commission for an order vacating or modifying the action of the director or a local board of health, or ordering the director or board of health to perform an act. The environmental review appeals commission has exclusive original jurisdiction over any matter that may, under this section, be brought before it.

The person so appealing to the commission shall be known as appellant, and the director and any party to a proceeding substantially supporting the finding from which the appeal is taken shall be known as appellee, except that when an appeal involves a license to operate a disposal site or facility, the local board of health or the director of environmental protection, and any party to a proceeding substantially supporting the finding from which the appeal is taken, shall, as appropriate, be known as the appellee. Appellant and appellee shall be deemed to be parties to the appeal.

The appeal shall be in writing and shall set forth the action complained of and the grounds upon which the appeal is based.

The appeal shall be filed with the commission within thirty days after notice of the action. Notice of the filing of the appeal shall be filed with the appellee within three days after the appeal is filed with the commission.

The appeal shall be accompanied by a filing fee of ~~sixty~~ seventy dollars, which the commission, in its discretion, may ~~waive in cases of~~ reduce if by affidavit the appellant demonstrates that payment of the full amount of the fee would cause extreme hardship.

Within seven days after receipt of the notice of appeal, the director or local board of health shall prepare and certify to the commission a record of the proceedings out of which the appeal arises, including all documents and correspondence, and a transcript of all testimony.

Upon the filing of the appeal, the commission shall fix the time and place at which the hearing on the appeal will be held. The commission shall give the appellant and the appellee at least ten days' written notice thereof by certified mail. The commission shall hold the hearing within thirty days after the notice of appeal is filed. The commission may postpone or continue any hearing upon its own motion or upon application of the appellant or of the appellee.

The filing of an appeal does not automatically suspend or stay execution of the action appealed from. Upon application by the appellant, the commission may suspend or stay the execution pending immediate determination of the appeal without interruption by continuances, other than for unavoidable circumstances.

As used in this section and sections 3745.05 and 3745.06 of the Revised Code, "director of environmental protection" and "director" are deemed to include the director of agriculture and "environmental protection agency" is deemed to include the department of agriculture with respect to actions that are appealable to the commission under Chapter 903. of the Revised Code.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) ~~Prior to January 1, 1994, each~~ Each person who is issued a ~~permit to operate, variance, or permit to install~~ prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedule ~~schedules~~:

(1) Fuel-Burning Equipment (boilers)			
Input capacity (<u>maximum</u>) (million British thermal units per hour) <u>Greater than 0 or more</u> , but	~~Permit to~~ ~~operate~~ \$ 75	~~Variance~~ \$ 225	Permit to install \$ 100 <u>200</u>
less than 10			
10 or more, but less than 100	210	450	390 <u>400</u>

100 or more, but less than 300	~~270~~	~~675~~	~~585~~ <u>800</u>
300 or more, but less than 500	~~330~~	~~900~~	~~780~~
			<u>1500</u>
500 or more, but less than 1000	~~500~~	~~975~~	~~1000~~
			<u>2500</u>
1000 or more, but less than 5000			<u>4000</u>
5000 or more			<u>6000</u>

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

~~Any fuel burning equipment using only natural gas, propane, liquefied petroleum gas, or number two or lighter fuel oil shall be assessed a fee one-half of that shown.~~

(2) Incinerators

Input capacity (pounds per hour)	Permit to operate	Variance	Permit to install
0 to ~~50~~ <u>100</u>	~~\$ 50~~	~~\$225~~	~~\$ 65~~ <u>100</u>
~~51~~ <u>101</u> to 500	~~210~~	~~450~~	~~390~~ <u>400</u>
501 to 2000	~~270~~	~~675~~	~~585~~ <u>750</u>
2001 to ~~30,000~~ <u>20,000</u>	~~330~~	~~900~~	~~780~~
			<u>1000</u>
more than ~~30,000~~ <u>20,000</u>	~~500~~	~~975~~	~~1000~~
			<u>2500</u>

~~(3)~~(a) Process

Process weight rate (pounds per hour)	Permit to operate	Variance	Permit to install
0 to 1000	~~\$100~~	~~\$225~~	~~\$ 200~~
1001 to 5000	~~210~~	~~450~~	~~390~~ <u>400</u>
5001 to 10,000	~~270~~	~~675~~	~~585~~ <u>600</u>
10,001 to 50,000	~~330~~	~~900~~	~~780~~ <u>800</u>
more than 50,000	~~500~~	~~975~~	~~1000~~

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification

code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;
1213 Bituminous coal and lignite mining services;
1411 Dimension stone;
1422 Crushed and broken limestone;
1427 Crushed and broken stone, not elsewhere classified;
1442 Construction sand and gravel;
1446 Industrial sand;
3281 Cut stone and stone products;
3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

<u>Process weight rate</u> <u>(pounds per hour)</u>	<u>Permit to</u> <u>install</u>		
<u>0 to 1000</u>			<u>\$ 200</u>
<u>10,001 to 50,000</u>			<u>300</u>
<u>50,001 to 100,000</u>			<u>400</u>
<u>100,001 to 200,000</u>			<u>500</u>
<u>200,001 to 400,000</u>			<u>600</u>
<u>400,001 or more</u>			<u>700</u>
(4) Storage tanks			
Gallons (<u>maximum useful capacity</u>)	<u>Permit</u> <u>to</u> <u>operate</u>	<u>Variance</u>	<u>Permit</u> <u>to</u> <u>install</u>
~~Less than 40,000~~ <u>0 to 20,000</u>	~~\$150~~	~~\$225~~	~~\$ 195~~ <u>100</u>
~~20,001 to 40,000 or more, but less~~ ~~than 100,000~~	~~210~~	~~450~~	~~390~~ <u>150</u>
~~100,000 or more, but less~~ ~~than 400,000~~	~~270~~	~~675~~	~~585~~
~~400,000 or more, but less~~ ~~than 40,001 to 100,000~~			<u>200</u>
<u>100,001 to 250,000</u>			<u>250</u>
<u>250,001 to 500,000</u>			<u>350</u>
<u>500,001 to 1,000,000</u>	<u>330</u>	<u>900</u>	~~780~~ <u>500</u>
~~1,000,000~~ <u>1,000,001 or more greater</u>	~~500~~	~~975~~	~~1000~~

			<u>750</u>
(5) ~~Gasoline~~ Gasoline/ <u>fuel</u> dispensing facilities	~~Permit~~ ~~to~~ operate	~~Variance~~	Permit to install
For each gasoline/ <u>fuel</u> dispensing facility	\$20	\$100	~~\$50~~ <u>100</u>
(6) ~~Dry cleaning~~ Dry cleaning facilities	~~Permit~~ ~~to~~ operate	~~Variance~~	Permit to install
For each dry cleaning facility (<u>includes all units</u> <u>at the facility</u>)	\$50	\$200	\$100

(7) ~~Coal mining operations regulated under Chapter 1513. of the Revised Code shall be assessed a fee of two hundred fifty dollars per mine or location.~~ Registration status

	<u>Permit</u> <u>to</u> <u>install</u>
<u>For each source covered by registration status</u>	<u>\$75</u>

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent

calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)~~(2)~~(3) of this section, ~~beginning from~~ January 1, 1994, ~~through December 31, 2003~~, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant

source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

<u>Total tons per year of regulated pollutants emitted</u>	<u>Annual fee per facility</u>
<u>More than 0, but less than 10</u>	<u>\$ 100</u>
<u>10 or more, but less than 50</u>	<u>200</u>
<u>50 or more, but less than 100</u>	<u>300</u>
<u>100 or more</u>	<u>700</u>

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2004~~ 2006, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

<u>Combined total tons per year of all regulated pollutants emitted</u>	<u>Annual fee per facility</u>
<u>Less than 10</u>	<u>\$ 170</u>
<u>10 or more, but less than 20</u>	<u>340</u>
<u>20 or more, but less than 30</u>	<u>670</u>
<u>30 or more, but less than 40</u>	<u>1,010</u>
<u>40 or more, but less than 50</u>	<u>1,340</u>
<u>50 or more, but less than 60</u>	<u>1,680</u>
<u>60 or more, but less than 70</u>	<u>2,010</u>
<u>70 or more, but less than 80</u>	<u>2,350</u>
<u>80 or more, but less than 90</u>	<u>2,680</u>
<u>90 or more, but less than 100</u>	<u>3,020</u>
<u>100 or more</u>	<u>3,350</u>

~~(3)~~(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)~~(2)~~(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after ~~January 1, 1994~~ July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum)

(million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	~~800~~ <u>1000</u>
300 or more, but less than 500	~~1500~~ <u>2250</u>
500 or more, but less than 1000	~~2500~~ <u>3750</u>
1000 or more, but less than 5000	~~4000~~ <u>6000</u>
5000 or more	~~6000~~ <u>9000</u>

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

<u>Generating capacity (mega watts)</u>	<u>Permit to install</u>
<u>0 or more, but less than 10</u>	<u>\$ 25</u>
<u>10 or more, but less than 25</u>	<u>150</u>
<u>25 or more, but less than 50</u>	<u>300</u>
<u>50 or more, but less than 100</u>	<u>500</u>
<u>100 or more, but less than 250</u>	<u>1000</u>
<u>250 or more</u>	<u>2000</u>

(3) Incinerators

<u>Input capacity (pounds per hour)</u>	<u>Permit to install</u>
<u>0 to 100</u>	<u>\$ 100</u>
<u>101 to 500</u>	<u>~~400~~ 500</u>
<u>501 to 2000</u>	<u>~~750~~ 1000</u>
<u>2001 to 20,000</u>	<u>~~1000~~ 1500</u>
<u>more than 20,000</u>	<u>~~2500~~ 3750</u>

(3)(4)(a) Process

<u>Process weight rate (pounds per hour)</u>	<u>Permit to install</u>
<u>0 to 1000</u>	<u>\$ 200</u>
<u>1001 to 5000</u>	<u>~~400~~ 500</u>
<u>5001 to 10,000</u>	<u>~~600~~ 750</u>
<u>10,001 to 50,000</u>	<u>~~800~~ 1000</u>
<u>more than 50,000</u>	<u>~~1000~~ 1250</u>

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate

electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining;
- 1213 Bituminous coal and lignite mining services;
- 1411 Dimension stone;
- 1422 Crushed and broken limestone;
- 1427 Crushed and broken stone, not elsewhere classified;
- 1442 Construction sand and gravel;
- 1446 Industrial sand;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(3)(b) of this section:

~~Gallons (maximum useful capacity)~~ <u>Process weight rate</u> (pounds per hour)	Permit to install
0 to ~~20,000~~ <u>10,000</u>	\$ ~~100~~ <u>200</u>
~~20,001~~ <u>10,001</u> to ~~40,000~~ <u>50,000</u>	~~150~~ <u>400</u>
~~40,001~~ <u>50,001</u> to 100,000	~~200~~ <u>500</u>
100,001 to ~~250,000~~ <u>200,000</u>	~~250~~ <u>600</u>
~~250,001~~ <u>200,001</u> to ~~500,000~~ <u>400,000</u>	~~350~~ <u>750</u>
~~500,001~~ to 1,000,000	~~500~~
~~1,000,001~~ <u>400,001</u> or greater ~~more~~	~~750~~ <u>900</u>
(4)(5) Storage tanks	
Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	~~200~~ <u>250</u>
100,001 to ~~250,000~~	~~250~~

~~250,001~~ to 500,000	~~350~~ <u>400</u>
500,001 to ~~1,000,000~~	~~500~~
~~1,000,001~~ or greater	750

~~(5)~~(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility <u>(includes all units at the facility)</u>	Permit to install \$ 100

~~(6)~~(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100

~~(7)~~(8) Registration status

For each source covered by registration status	Permit to install \$ 75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the

applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of

this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2004~~ 2006, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2004~~ 2006, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2004~~ 2006, and five thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2002~~ 2004, and January 30, ~~2003~~ 2005, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the

billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~2002~~ 2004, and January 30, ~~2003~~ 2005
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~2002~~ <u>2004</u> , and January 30, ~~2003~~ <u>2005</u>
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200
250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2002~~ 2004, and not later than January 30, ~~2003~~ 2005. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the

credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2004~~ 2006, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

~~Fees~~ Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2004~~ 2006, the fee is:

Number of service connections	Fee amount
Not more than 49	~~\$56~~ <u>112</u>
50 to 99	~~88~~ <u>176</u>
Number of service connections	Average cost per connection
100 to 2,499	~~\$.96~~ <u>1.92</u>
2,500 to 4,999	~~.92~~ <u>1.48</u>
5,000 to 7,499	~~.88~~ <u>1.42</u>

7,500 to 9,999	~~.84~~ <u>1.34</u>
10,000 to 14,999	~~.80~~ <u>1.16</u>
15,000 to 24,999	~~.76~~ <u>1.10</u>
25,000 to 49,999	~~.72~~ <u>1.04</u>
50,000 to 99,999	~~.68~~ <u>.92</u>
100,000 to 149,999	~~.64~~ <u>.86</u>
150,000 to 199,999	~~.60~~ <u>.80</u>
200,000 or more	~~.56~~ <u>.76</u>

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2004 2006, the fee is:

Population served	Fee amount
Fewer than 150	\$ ~~56~~ <u>112</u>
150 to 299	~~88~~ <u>176</u>
300 to 749	~~192~~ <u>384</u>
750 to 1,499	~~392~~ <u>628</u>
1,500 to 2,999	~~792~~ <u>1,268</u>
3,000 to 7,499	~~1,760~~ <u>2,816</u>
7,500 to 14,999	~~3,800~~ <u>5,510</u>
15,000 to 22,499	~~6,240~~ <u>9,048</u>
22,500 to 29,999	~~8,576~~ <u>12,430</u>
30,000 or more	~~11,600~~ <u>16,820</u>

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, 2004 2006,

the fee is:

Number of wells supplying system	Fee amount
1	\$ ~~56~~ <u>112</u>
2	~~56~~ <u>112</u>
3	88 <u>176</u>
4	~~192~~ <u>278</u>
5	~~392~~ <u>568</u>

System ~~supplied by~~ designated as
using a surface

~~water, springs, or dug wells source~~ 792

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus ~~two-tenths~~ thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed ~~fifteen~~ twenty thousand dollars through June 30, ~~2004~~ 2006, and ~~five~~ fifteen thousand dollars on and after July 1, ~~2004~~ 2006. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	\$1,650
<u>MMO-MUG</u>	<u>\$2,000</u>
<u>MF</u>	<u>2,100</u>

<u>MMO-MUG and MF</u>	<u>2,550</u>
organic chemical	~~3,500~~ <u>5,400</u>
~~inorganic chemical~~ <u>trace</u>	~~3,500~~ <u>5,400</u>
<u>metals</u>	
standard chemistry	~~1,800~~ <u>2,800</u>
limited chemistry	~~1,000~~ <u>1,550</u>

On and after July 1, ~~2004~~ 2006, the following fee, on a per survey basis, shall be charged any such person:

microbiological	~~\$250~~ <u>1,650</u>
<u>organic chemicals</u>	<u>3,500</u>
~~chemical/radiological~~ <u>trace</u>	~~250~~ <u>3,500</u>
<u>metals</u>	
<u>standard chemistry</u>	<u>1,800</u>
~~nitrate/turbidity (only)~~	~~150~~ <u>1,000</u>
<u>limited chemistry</u>	

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2004~~ 2006, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means microfiltration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of twenty-five dollars through ~~June~~ November 30, 2004, and ten dollars on and after July 1, ~~2004~~ 2003. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through ~~June~~ November 30, ~~2004~~ 2003:

Class I operator	\$45
Class II operator	55
Class III operator	65

Class IV operator 75

On and after December 1, 2003, any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, 2006, and twenty-five dollars on and after December 1, 2006. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, 2006:

<u>Class A operator</u>	<u>\$35</u>
<u>Class I operator</u>	<u>60</u>
<u>Class II operator</u>	<u>75</u>
<u>Class III operator</u>	<u>85</u>
<u>Class IV operator</u>	<u>100</u>

On and after ~~July~~ December 1, 2004 2006, the applicant shall pay a fee in accordance with the following schedule:

<u>Class A operator</u>	<u>\$25</u>
<u>Class I operator</u>	<u>~~\$25~~ 45</u>
<u>Class II operator</u>	<u>~~35~~ 55</u>
<u>Class III operator</u>	<u>~~45~~ 65</u>
<u>Class IV operator</u>	<u>~~55~~ 75</u>

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

<u>Class A operator</u>	<u>\$25</u>
<u>Class I operator</u>	<u>35</u>
<u>Class II operator</u>	<u>45</u>
<u>Class III operator</u>	<u>55</u>
<u>Class IV operator</u>	<u>65</u>

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

<u>Class A operator</u>	<u>\$45</u>
<u>Class I operator</u>	<u>55</u>
<u>Class II operator</u>	<u>65</u>
<u>Class III operator</u>	<u>75</u>
<u>Class IV operator</u>	<u>85</u>

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to

the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) ~~Through June 30, 2004, any~~ Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after the effective date of this amendment, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under

this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the

scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2004~~ 2006, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2004~~ 2006. Through June 30, ~~2004~~ 2006, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2004~~ 2006, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under

division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit

renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater

than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers

the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the

director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3745.14. (A) As used in this section:

(1) "Compliance review" means the review of an application for a permit, renewal of a permit, or plan approval, or modification thereof, for an existing or proposed facility, source, or activity and the accompanying

engineering plans, specifications, and materials and information that are submitted under Chapter 3704., 3734., 6109., or 6111. of the Revised Code and rules adopted under them for compliance with performance standards under the applicable chapter and rules adopted under it. "Compliance review" does not include the review of an application for a hazardous waste facility installation and operation permit or the renewal or modification of such a permit, a permit to establish or modify an infectious waste treatment facility, a permit to install a solid waste incineration facility that also would treat infectious wastes, or a permit to modify a solid waste incineration facility to also treat infectious wastes under Chapter 3734. of the Revised Code.

(2) "Engineer" includes both of the following:

(a) A professional engineer registered under Chapter 4733. of the Revised Code;

(b) A firm, partnership, association, or corporation providing engineering services in this state in compliance with Chapter 4733. of the Revised Code.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend and rescind, rules establishing a program for the certification of engineers to conduct compliance reviews. The rules, at a minimum, shall do all of the following:

(1) Require that the program be administered by the director;

(2) Establish eligibility criteria for certification to conduct compliance reviews;

(3) Establish criteria for denying, suspending, and revoking certifications and renewals of certifications issued pursuant to rules adopted under division (B) of this section;

(4) Require the periodic renewal of certifications issued pursuant to rules adopted under division (B) of this section;

(5) Establish an application fee and fee for issuance for certifications under this section. The fees shall be established at a level calculated to defray the costs to the environmental protection agency for administering the certification program established by rules adopted under division (B) of this section. All such application and certification fees received by the director shall be deposited into the state treasury to the credit of the permit review fund created in division (E) of this section.

(C) The director shall maintain a current list of all engineers who are certified to conduct compliance reviews pursuant to rules adopted under this section. The list shall indicate the types of permits, permit renewals, and plan approvals that each engineer is certified to review and the types or

categories of facilities, sources, or activities in connection with which the engineer is certified to conduct the reviews. Upon request, the director shall provide a copy of the list to anyone requesting it.

(D) An applicant for a permit, renewal of a permit, plan approval, or modification thereof, under Chapter 3704., 3734., 6109., or 6111. of the Revised Code and applicable rules adopted under them, other than a hazardous waste facility installation and operation permit or renewal or modification of such a permit, a permit to establish or modify an infectious waste treatment facility, a permit to install a solid waste incineration facility that also would treat infectious wastes, or a permit to modify a solid waste incineration facility to also treat infectious wastes under Chapter 3734. of the Revised Code, may submit a written request to the director to have the compliance review conducted by an engineer certified under this section. The request shall accompany the permit application, shall indicate the applicant's choice from among the certified engineers on the director's list who are qualified to conduct the compliance review, shall be accompanied by separate certifications by the applicant and the engineer indicating that the applicant does not have and has not had during the preceding two years a financial interest in the engineer and has not employed or retained the engineer to perform services for the applicant during the preceding two years, and may be accompanied by a draft proposal for conducting the compliance review that was developed by the applicant and the engineer. No such draft proposal is binding upon the director.

Within seven days after receiving a request under this division, the director shall do all of the following, as appropriate:

(1) In the director's discretion, approve or disapprove the applicant's request to have the compliance review of the application conducted by an engineer on the list of certified engineers prepared under this section;

(2) If the director approves the conducting of the compliance review by such a certified engineer, approve or disapprove, in the director's discretion, the applicant's choice of the engineer;

(3) Mail written notice of decisions made under divisions (D)(1) and (2) of this section to the applicant.

If the director fails to mail notice of the director's decisions on the request to the applicant within seven days after receiving the request, it is conclusively presumed that the director approved the applicant's request to have the compliance review conducted by a certified engineer and the applicant's choice of the engineer, and the director shall enter into a contract with the engineer chosen by the applicant. If the director disapproves the applicant's choice of an engineer and provides timely notice of the

disapproval to the applicant, the director and applicant, by mutual agreement, shall select another engineer from the list prepared under this section to conduct the compliance review, and the director shall enter into a contract with that engineer.

(E) The director may enter into contracts for conducting performance reviews under division (D) of this section without advertising for bids. The commencement of any work under such a contract shall be contingent upon the director's receipt of payment from the applicant of an amount that is equal to one hundred ten per cent of the amount specified in the contract, excluding contingencies for any additional work that may be needed to properly complete the review and that was not anticipated when the contract was made. Moneys received by the director from an applicant shall be deposited into the permit review fund, which is hereby created in the state treasury. The director shall use moneys in the fund to pay the cost of compliance reviews conducted pursuant to contracts entered into under division (D) of this section and to administer the certification program established under division (B) of this section. The director may use any moneys in the fund not needed for those purposes to administer the environmental laws or programs of this state.

If, while conducting a compliance review, the engineer finds that work in addition to that upon which the cost under the contract was based, or any additional work previously authorized under this division, is needed to properly review the application and accompanying information for compliance with the applicable performance standards, the engineer shall notify the director of that fact and of the cost of the additional work, as determined pursuant to the terms of the contract. If the director finds that the additional work is needed and that the costs of performing the work have been determined in accordance with the terms of the contract, the director shall authorize the contractor to perform the work. Upon completion of the additional work, the contractor shall submit to the director an invoice for the cost of performing the additional work, and the director shall forward a copy of the invoice to the applicant. The applicant is liable to the state for an amount equal to one hundred ten per cent of the cost of performing the additional work and, within thirty days after receiving a copy of the invoice, shall pay to the director an amount equal to one hundred ten per cent of the amount indicated on the invoice. Upon receiving this payment, the director shall forward the moneys to the treasurer of state, who shall deposit them into the state treasury to the credit of the permit review fund.

Until the applicant pays to the director the amount due in connection with the additional work, the director shall not issue to the applicant any

permit, renewal of a permit, or plan approval, or modification thereof, for which an application is pending before the director. The director also may certify the unpaid amount to the attorney general and request that the attorney general bring a civil action against the applicant to recover that amount. Any moneys so recovered shall be deposited into the state treasury to the credit of the permit review fund.

(F) Upon completing a compliance review conducted under this section, the engineer shall make a certification to the director as to whether the existing or proposed facility, source, activity, or modification will comply with the applicable performance standards. If the certification indicates that the existing or proposed facility, source, activity, or modification will not comply, the engineer shall include in the certification the engineer's findings as to the causes of the noncompliance.

(G) When a compliance review is conducted by an engineer certified under this section, the other activities in connection with the consideration, approval, and issuance of the permit, renewal of the permit, or plan approval, or modification thereof, shall be conducted by the director ~~or, when applicable, the hazardous waste facility board established in section 3734.05 of the Revised Code~~, in accordance with the applicable provisions of Chapter 3704., 3734., 6109., or 6111. of the Revised Code and rules adopted under the applicable chapter.

(H) All expenses incurred by the attorney general in bringing a civil action under this section shall be reimbursed from the permit review fund in accordance with Chapter 109. of the Revised Code.

Sec. 3745.40. (A) There is hereby created the clean Ohio operating fund consisting of moneys credited to the fund in accordance with this section. The fund shall be used to pay the costs incurred by the director of environmental protection pursuant to sections 122.65 to 122.658 of the Revised Code. Investment earnings of the fund shall be credited to the fund: ~~For two years after the effective date of this section, investment earnings credited to the fund~~ and may be used to pay administrative costs incurred by the director pursuant to those sections.

(B) Notwithstanding section 3746.16 of the Revised Code, upon the request of the director of environmental protection, the director of development shall certify to the director of budget and management the amount of excess investment earnings that are available to be transferred from the clean Ohio revitalization fund created in section 122.658 of the Revised Code to the clean Ohio operating fund. Upon certification, the director of budget and management may transfer from the clean Ohio revitalization fund to the clean Ohio operating fund an amount not

exceeding the amount of the annual appropriation to the clean Ohio operating fund.

Sec. 3746.13. (A) For property that does not involve the issuance of a consolidated standards permit under section 3746.15 of the Revised Code and where no engineering or institutional controls are used to comply with applicable standards, the director of environmental protection shall issue a covenant not to sue pursuant to section 3746.12 of the Revised Code by issuance of an order as a final action under Chapter 3745. of the Revised Code within thirty days after the director receives the no further action letter for the property and accompanying verification from the certified professional who prepared the letter under section 3746.11 of the Revised Code.

(B) For property that involves the issuance of a consolidated standards permit under section 3746.15 of the Revised Code or where engineering or institutional controls are used to comply with applicable standards, the director shall issue a covenant not to sue by issuance of an order as a final action under Chapter 3745. of the Revised Code within ninety days after the director receives the no further action letter for the property and accompanying verification from the certified professional who prepared the letter.

(C) Except as provided in division (D) of this section, each person who is issued a covenant not to sue under this section shall pay the fee established pursuant to rules adopted under division (B)(8) of section 3746.04 of the Revised Code. Until those rules become effective, each person who is issued a covenant not to sue shall pay a fee of two thousand dollars. The fee shall be paid to the director at the time that the no further action letter and accompanying verification are submitted to the director.

(D) An applicant, as defined in section 122.65 of the Revised Code, who has entered into an agreement under section 122.653 of the Revised Code and who is issued a covenant not to sue under this section shall not be required to pay the fee for the issuance of a covenant not to sue established in rules adopted under division (B)(8) of section 3746.04 of the Revised Code.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to

section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of ~~one~~ two hundred ~~sixty~~ dollars. On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules.

All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules, licenses and certificates of registration shall be effective for the applicable period established in those rules. Licenses and certificates of registration shall be renewed in accordance with the standard renewal procedure established in Chapter 4745. of the Revised Code.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under that section, the director shall inspect all records and operating procedures of handlers that install sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A

certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B) Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, a facility shall pay inspection fees according to the following schedule and categories:

First dental x-ray tube	\$ ~~94.00~~ <u>118.00</u>
Each additional dental x-ray tube at the same location	\$ ~~47.00~~ <u>59.00</u>
First medical x-ray tube	\$ ~~187.00~~ <u>235.00</u>
Each additional medical x-ray tube at the same location	\$ ~~94.00~~ <u>125.00</u>
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ ~~373.00~~ <u>466.00</u>
First nonionizing radiation-generating equipment of any kind	\$ ~~187.00~~ <u>235.00</u>
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ ~~94.00~~ <u>125.00</u>
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ ~~233.00~~ <u>291.00</u>

Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted, the fee for the inspection of a facility that is not licensed or registered and for which no license or registration application is pending at the time of inspection is ~~two~~ three hundred ~~ninety~~ sixty-three dollars plus the fee applicable under the schedule in this division.

The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. Until rules are adopted under division (A)(8) of

section 3748.04 of the Revised Code, the fee for the review is ~~four~~ five hundred ~~sixty-six~~ eighty-three dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in this division.

All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(D) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3769.087. (A) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code, each permit holder shall retain an additional amount equal to four per

cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show, of which amount retained an amount equal to three per cent of the total of all moneys wagered on each racing day on those pools shall be paid by check, draft, or money order to the tax commissioner, as a tax. Subject to the restrictions contained in divisions (B), (C), and (M) of section 3769.08 of the Revised Code, from such additional moneys paid to the tax commissioner:

(1) Four-sixths shall be allocated to fund distribution as provided in division (M) of section 3769.08 of the Revised Code.

(2) One-twelfth shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code.

(3) One-twelfth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code.

(5) One-twelfth of the additional moneys paid to the tax commissioner by quarter horse racing permit holders shall be paid to the Ohio quarter horse development fund created by section 3769.086 of the Revised Code.

(6) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division (A) of this section, each permit holder shall retain an additional amount equal to one-half of one per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. ~~From~~ Except as provided in division (C) of this section, from the additional amount retained under this division, each permit holder shall retain an amount equal to one-quarter of one per cent of the total of all moneys wagered on each racing day on all pools other than win, place, and show and shall pay that amount by check, draft, or money order to the tax commissioner, as a tax. The tax commissioner shall pay the amount of the tax received under this

division to the state racing commission operating fund created by section 3769.03 of the Revised Code.

~~The~~ Except as provided in division (C) of this section, the remaining one-quarter of one per cent that is retained from the total of all moneys wagered on each racing day on all pools other than win, place, and show shall be retained by the permit holder, and the permit holder shall use one-half for purse money and retain one-half.

(C) During the period commencing on July 1, 2003, and ending on and including June 30, 2004, the additional amount retained by each permit holder under division (B) of this section shall be paid by check, draft, or money order to the tax commissioner, as a tax. The tax commissioner shall pay the amount of the tax received under this division to the state racing commission operating fund created by section 3769.03 of the Revised Code.

Sec. 3770.07. (A)(4) Lottery prize awards shall be claimed by the holder of the winning lottery ticket, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning ticket, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which such prize award was announced if the lottery game is an on-line game, and within one hundred eighty days after the close of the game if the lottery game is an instant game. ~~Except as otherwise provided in division (B) of this section, if~~ If no valid claim to the prize award is made within the prescribed period, the prize money or the cost of goods and services awarded as prizes, or if such goods or services are resold by the commission, the proceeds from such sale, shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

~~(2)(B)~~ (B) If a prize winner, as defined in section 3770.10 of the Revised Code, is under eighteen years of age, or is under some other legal disability, and the prize money or the cost of goods or services awarded as a prize exceeds one thousand dollars, the director shall order that payment be made to the order of the legal guardian of that prize winner. If the amount of the prize money or the cost of goods or services awarded as a prize is one thousand dollars or less, the director may order that payment be made to the order of the adult member, if any, of that prize winner's family legally responsible for the care of that prize winner.

~~(3)(C)~~ (C) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be the subject of a security interest or used as collateral.

~~(4)(a)(D)(1)~~ (D)(1) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be assignable, or subject to

garnishment, attachment, execution, withholding, or deduction, except as follows: as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code; when the payment is to be made to the executor or administrator or the trustee of a trust of the estate of a winning ticket holder; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; when the director is to make a payment pursuant to ~~section~~ sections 3770.071 or 3770.073 of the Revised Code; or as provided in sections 3770.10 to 3770.14 of the Revised Code.

~~(b)~~(2) The commission shall adopt rules pursuant to section 3770.03 of the Revised Code concerning the payment of prize awards upon the death of a prize winner. Upon the death of a prize winner, as defined in section 3770.10 of the Revised Code, the remainder of the prize winner's prize award, to the extent it is not subject to a transfer agreement under sections 3770.10 to 3770.14 of the Revised Code, may be paid to the executor, administrator, or trustee in the form of a discounted lump sum cash settlement.

~~(5)~~(E) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively coordinating and certifying commission drawings, or any blood relative or spouse of such officer or employee of the commission or auditor of state living as a member of such officer's or employee's household, nor shall any such employee, blood relative, or spouse attempt to claim a lottery prize award.

~~(6)~~(F) The director may prohibit vendors to the commission and their employees from being awarded a lottery prize award.

~~(7)~~(G) Upon the payment of prize awards pursuant to this section, the director and the commission are discharged from all further liability therefor.

~~(B) The commission may adopt rules governing the disbursement of unclaimed prize awards as all or part of the prize award in a lottery and may, pursuant to those rules, conduct the lottery and disburse any such unclaimed prize awards. Any lottery in which all or any part of the prize award is paid from unclaimed prize awards shall be conducted in accordance with all of the other requirements of this chapter, including, but not limited to, the time and proof requirements for claiming awards and the disposition of unclaimed prize awards when the prescribed period for claiming the award has passed. A prize award or any part of a prize award that is paid from an unclaimed prize award shall not be reapplied toward the satisfaction of the requirement of division (A) of section 3770.06 of the Revised Code that at~~

~~least fifty per cent of the total revenues from ticket sales be disbursed for monetary prize awards, if such unclaimed prize award was previously applied toward the satisfaction of that requirement. On or before the last day of January and July each year, the commission shall report to the general assembly the gross sales and net profits the commission obtained from the unclaimed prize awards in lotteries conducted pursuant to this division during the preceding two calendar quarters, including the amount of money produced by the games funded by the unclaimed prize awards and the total revenue accruing to the state from the prize award lotteries conducted pursuant to this division.~~

~~There is hereby established in the state treasury the unclaimed lottery prizes fund, to which all unclaimed prize awards shall be transferred. Any interest that accrues on the amounts in the fund shall become a part of the fund and shall be subject to any rules adopted by the commission governing the disbursement of unclaimed prize awards.~~

Sec. 3770.073. (A) If a person is entitled to a lottery prize award and is indebted to the state for the payment of any tax, workers' compensation premium, unemployment contribution, payment in lieu of unemployment contribution, or charge, penalty, or interest arising from these debts and the amount of the prize money or the cost of goods or services awarded as a lottery prize award is five thousand dollars or more, the director of the state lottery commission, or the director's designee, shall do either of the following:

(1) If the prize award will be paid in a lump sum, deduct from the prize award and pay to the attorney general an amount in satisfaction of the debt and pay any remainder to that person. If the amount of the prize award is less than the amount of the debt, the entire amount of the prize award shall be deducted and paid in partial satisfaction of the debt.

(2) If the prize award will be paid in annual installments, on the date the initial installment payment is due, deduct from that installment and pay to the attorney general an amount in satisfaction of the debt and, if necessary to collect the full amount of the debt, do the same for any subsequent annual installments, at the time the installments become due and owing to the person, until the debt is fully satisfied.

(B) If a person entitled to a lottery prize award owes more than one debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first.

(C) This section applies only to debts that have become final.

Sec. 3770.10. As used in sections 3770.07 and 3770.10 to 3770.14 of the Revised Code:

(A) "Court of competent jurisdiction" means either the general division or the probate division of the court of common pleas of the county in which the prize winner resides, or, if the prize winner is not a resident of this state, either the general division or the probate division of the court of common pleas of Franklin county or a federal court having jurisdiction over the lottery prize award.

(B) "Discounted present value" means the present value of the future payments of a lottery prize award that is determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity as issued by the United States internal revenue service and assuming daily compounding.

(C) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser if all of the following apply:

(1) The prize winner has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award.

(2) The licensed professional adviser is not affiliated in any manner with or compensated in any manner by the transferee of the lottery prize award.

(3) The compensation of the licensed professional adviser is not affected by whether or not a transfer of a lottery prize award occurs.

(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award as a result of being any of the following:

(1) A person who is a claimant under division (A)(~~1~~) of section 3770.07 of the Revised Code;

(2) A person who is entitled to a prize award and who is under a legal disability as described in division (~~A~~)(~~2~~)(B) of section 3770.07 of the Revised Code;

(3) A person who was awarded a prize award to which another has claimed title by a court order under division (~~A~~)(~~4~~)(~~a~~)(D)(1) of section 3770.07 of the Revised Code;

(4) A person who is receiving payments upon the death of a prize winner as provided in division (~~A~~)(~~4~~)(~~b~~)(D)(2) of section 3770.07 of the Revised Code.

(E) "Transfer" means any form of sale, assignment, or redirection of payment of all or any part of a lottery prize award for consideration.

(F) "Transfer agreement" means an agreement that is complete and valid, and that provides for the transfer of all or any part of a lottery prize award from a transferor to a transferee. A transfer agreement is incomplete and invalid unless the agreement contains both of the following:

(1) A statement, signed by the transferor under penalties of perjury, that the transferor irrevocably agrees that the transferor is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferor will recognize in connection with the transfer. If the transferor is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall also sign under penalties of perjury a statement that the investor irrevocably agrees that the investor is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferor and the investor will recognize in connection with the transfer.

(2) A statement, signed by the transferee, that the transferee irrevocably agrees that the transferee is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee will recognize in connection with lottery prize awards to be received as a result of the transfer. If the transferee is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall also sign under penalties of perjury a statement setting forth that the investor irrevocably agrees that the investor is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee and the investor will recognize in connection with lottery prize awards to be received as a result of the transfer.

(G) "Transferee" means a party acquiring or proposing to acquire all or any part of a lottery prize award through a transfer.

(H) "Transferor" means either a prize winner or a transferee in an earlier transfer whose interest is acquired by or is sought to be acquired by a transferee or a new transferee through a transfer.

Sec. 3770.12. A court of competent jurisdiction ~~may~~ shall approve a transfer of a lottery prize award only in a final order that is based on ~~the~~ express findings of the court, ~~and the~~. The court shall approve the transfer only if each of the following conditions that applies is met and is included in the court's express findings shall include all of the following:

(A) If the transferor is a prize winner, the transferee has provided to the prize winner a disclosure statement that complies with section 3770.11 of the Revised Code, and the prize winner has confirmed the prize winner's receipt of the disclosure statement, as evidenced by the prize winner's notarized signature on a copy of the disclosure statement.

~~(B) If the transferor is a prize winner, the prize winner has established~~

~~that the transfer is fair and reasonable and in the best interests of the prize winner.~~

~~(C)~~ If the transferor is a prize winner, the prize winner has received independent professional advice regarding the legal and other implications of the transfer.

~~(D)~~(C) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the state lottery commission and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.

~~(E)~~(D) The transferee is a trust, limited partnership, general partnership, corporation, professional association, limited liability company, or other entity that is qualified to do business in this state and meets the registration requirements for that type of entity under Title XVII of the Revised Code.

~~(F)~~(E) The transfer complies with all applicable requirements of the Revised Code and does not contravene any applicable law.

~~(G)~~(F) The transfer does not include or cover the amounts of the lottery prize award that are required to be withheld or deducted pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3770.071, or 3770.072 of the Revised Code.

~~(H)~~(G) Any amounts described in division ~~(G)~~(F) of this section that are required to be withheld or deducted, as of the date of the court order, will be offset by the commission first against remaining payments due the transferor and then against payments due the transferee.

~~(I)~~(H) Except as provided in divisions (F) and (G) and ~~(H)~~ of this section, that the transferor's interest in each and all of the future payments from a particular lottery prize award is to be paid to a single transferee, or, if the payments from the lottery prize award are to be directed from the state lottery commission to multiple transferees, the commission has promulgated rules under section 3770.03 of the Revised Code permitting transfers to multiple transferees, and the transfer is consistent with those rules.

~~(J)~~(I) If the lottery prize award has been transferred within twelve months immediately preceding the effective date of the proposed transfer, the state lottery commission has not objected to the proposed transfer. The court shall presume that the requirements of this division are met unless the commission notifies the court in writing before the hearing on the application for transfer, or through counsel at that hearing, that a transfer of the same lottery prize award has been made within that twelve-month period and that the commission objects to a subsequent transfer within that twelve-month period. The court shall find that the requirements of this division are not met if the commission provides notice of a prior transfer of

the same lottery prize award within that twelve-month period and its objection to the proposed transfer, unless the transferor or transferee shows by clear and convincing evidence that no previous transfer of the same lottery prize award occurred within that twelve-month period.

If the court determines that all of the conditions in divisions (A) to (I) of this section that apply are met, the transfer of the lottery prize award shall be presumed to be fair and reasonable and in the best interests of the prize winner.

Sec. 3770.99. (A) Whoever is prohibited from claiming a lottery prize award under division ~~(A)(5)(E)~~ of section 3770.07 of the Revised Code and attempts to claim or is paid a lottery prize award is guilty of a minor misdemeanor, and shall provide restitution to the state lottery commission of any moneys erroneously paid as a lottery prize award to that person.

(B) Whoever violates division (C) of section 3770.071 or section 3770.08 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 3773.33. (A) There is hereby created the Ohio athletic commission. The commission shall consist of five voting members appointed by the governor with the advice and consent of the senate, not more than three of whom shall be of the same political party, and two nonvoting members, one of whom shall be a member of the senate appointed by and to serve at the pleasure of the president of the senate and one of whom shall be a member of the house of representatives appointed by and to serve at the pleasure of the speaker of the house of representatives. To be eligible for appointment as a voting member, a person shall be a qualified elector and a resident of the state for not less than five years immediately preceding the person's appointment. Two voting members shall be knowledgeable in boxing, at least one voting member shall be knowledgeable and experienced in high school athletics, one voting member shall be knowledgeable and experienced in professional athletics, and at least one voting member shall be knowledgeable and experienced in collegiate athletics. One commission member shall hold the degree of doctor of medicine or doctor of osteopathy.

(B) No person shall be appointed to the commission or be an employee of the commission who is licensed, registered, or regulated by the commission. No member shall have any legal or beneficial interest, direct or indirect, pecuniary or otherwise, in any person who is licensed, registered, or regulated by the commission or who participates in prize fights or public boxing or wrestling matches or exhibitions. No member shall participate in any fight, match, or exhibition other than in the member's official capacity as a member of the commission, or as an inspector as authorized in section 3773.52 of the Revised Code.

(C) The governor shall appoint the voting members to the commission. Of the initial appointments, two shall be for terms ending one year after September 3, 1996, two shall be for terms ending two years after September 3, 1996, and one shall be for a term ending three years after September 3, 1996. Thereafter, terms of office shall be for three years, each term ending the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The governor shall name one voting member as chairperson of the commission at the time of making the appointment of any member for a full term. Three voting members shall constitute a quorum, and the affirmative vote of three voting members shall be necessary for any action taken by the commission. No vacancy on the commission impairs the authority of the remaining members to exercise all powers of the commission.

Voting members, when engaged in commission duties, shall receive a per diem compensation determined in accordance with division (J) of section 124.15 of the Revised Code, and all members shall receive their actual and necessary expenses incurred in the performance of their official duties.

Each voting member, before entering upon the discharge of the member's duties, shall file a surety bond payable to the treasurer of state in the sum of ten thousand dollars. Each surety bond shall be conditioned upon the faithful performance of the duties of the office, executed by a surety company authorized to transact business in this state, and filed in the office of the secretary of state.

The governor may remove any voting member for malfeasance, misfeasance, or nonfeasance in office after giving the member a copy of the charges against the member and affording the member an opportunity for a public hearing, at which the member may be represented by counsel, upon not less than ten days' notice. If the member is removed, the governor shall file a complete statement of all charges made against the member and the governor's finding ~~thereon~~ on the charges in the office of the secretary of state, together with a complete report of the proceedings. The governor's decision shall be final.

~~(D) The commission shall maintain an office in Youngstown and keep all of its permanent records there.~~

Sec. 3773.43. The Ohio athletic commission shall charge the following fees:

(A) For an application for or renewal of a promoter's license for public boxing matches or exhibitions, ~~fifty~~ one hundred dollars.

(B) For an application for or renewal of a license to participate in a public boxing match or exhibition as a contestant, or as a referee, judge, matchmaker, manager, timekeeper, trainer, or second of a contestant, ~~ten~~ twenty dollars.

(C) For a permit to conduct a public boxing match or exhibition, ~~ten~~ fifty dollars.

(D) For an application for or renewal of a promoter's license for professional wrestling matches or exhibitions, ~~one~~ two hundred dollars.

(E) For a permit to conduct a professional wrestling match or exhibition, ~~fifty~~ one hundred dollars.

The commission, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than ~~twenty-five~~ fifty per cent.

The fees prescribed by this section shall be paid to the treasurer of state, who shall deposit the fees in the occupational licensing and regulatory fund.

Sec. 3901.491. (A) As used in this section:

(1) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders.

(2) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of sickness and accident insurance.

(3) "Sickness and accident insurance" means sickness and accident insurance under Chapter 3923. of the Revised Code excluding disability income insurance and excluding supplemental policies of sickness and accident insurance.

(B) Upon the repeal of section 3901.49 of the Revised Code by ~~Sub. H.B. No. 71 of the 120th general assembly~~, no insurer shall do either of the following:

(1) Consider any information obtained from genetic screening or testing

in processing an application for an individual or group policy of sickness and accident insurance, or in determining insurability under such a policy;

(2) Inquire, directly or indirectly, into the results of genetic screening or testing or use such information, in whole or in part, to cancel, refuse to issue or renew, or limit benefits under, a sickness and accident insurance policy.

(C) Any insurer that has engaged in, is engaged in, or is about to engage in a violation of division (B) of this section is subject to the jurisdiction of the superintendent of insurance under section 3901.04 of the Revised Code.

Sec. 3901.501. (A) As used in this section:

(1) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects, or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease, or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects, or deficiencies, and not an indirect manifestation of genetic disorders.

(2) "Self-insurer" means any government entity providing coverage for health care services on a self-insurance basis.

(B) Upon the repeal of section 3901.50 of the Revised Code by Sub. H.B. No. 71 of the 120th general assembly, no self-insurer shall do either of the following:

(1) Consider any information obtained from genetic screening or testing in processing an application for coverage under a plan of self-insurance or in determining insurability under such a plan;

(2) Inquire, directly or indirectly, into the results of genetic screening or testing or use such information, in whole or in part, to cancel, refuse to provide or renew, or limit benefits under, a plan of self-insurance.

(C) Any self-insurer that has engaged in, is engaged in, or is about to engage in a violation of division (B) of this section is subject to the jurisdiction of the superintendent of insurance under section 3901.04 of the Revised Code.

Sec. 3901.72. Any person may advance to a domestic insurance company or a health insuring corporation any sum of money necessary for the purpose of the insurance company's or health insuring corporation's business, or to enable the insurance company or health insuring corporation to comply with any law, or as a cash guarantee fund. Such money, and interest agreed upon, ~~not exceeding ten per cent per annum or the total of four hundred basis points plus the rate on United States treasury notes or bonds closest in maturity to the final repayment date of the money so advanced, whichever is greater,~~ shall not be a liability or claim against the

insurance company or health insuring corporation, or any of its assets, except as provided in this section, and shall be repaid only out of the surplus earnings of such insurance company or health insuring corporation. Except as ordered by the superintendent of insurance, no part of the principal or interest thereof shall be repaid until the surplus of the insurance company or health insuring corporation remaining after such repayment is equal in amount to the principal of the money so advanced. Such advancement and repayment shall be subject to the approval of the superintendent, provided that this section shall not affect the power to borrow money which any such insurance company or health insuring corporation possesses under other laws. No commission or promotion expenses shall be paid by the insurance company or health insuring corporation, in connection with the advance of any such money to the insurance company or health insuring corporation, and the amount of any such unpaid advance shall be reported in each annual statement.

Sec. 4104.01. As used in sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code:

(A) "Board of building standards" or "board" means the board established by section 3781.07 of the Revised Code.

(B) "Superintendent" means the superintendent of the division of industrial compliance created by section 121.04 of the Revised Code.

(C) "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels, or from electricity or nuclear energy. "Boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(D) "Power boiler" means a boiler in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen psig.

(E) "High pressure, high temperature water boiler" means a water heating boiler operating at pressures exceeding one hundred sixty psig or temperatures exceeding two hundred fifty degrees Fahrenheit.

(F) "Low pressure boiler" means a steam boiler operating at pressures not exceeding fifteen psig, or a hot water heating boiler operating at pressures not exceeding one hundred sixty psig or temperatures not exceeding two hundred fifty degrees Fahrenheit.

(G) "~~Unfired pressure~~ Pressure vessel" means a container for the containment of pressure, either internal or external. This pressure may be obtained from an external source or by the application of heat from a direct

or indirect source or any combination thereof.

(H) "Process boiler" means a boiler to which all of the following apply:

(1) The steam in the boiler is either generated or superheated, or both, under pressure or vacuum for use external to itself.

(2) The source of heat for the boiler is in part or in whole from a process other than the boiler itself.

(3) The boiler is part of a continuous processing unit, such as used in chemical manufacture or petroleum refining, other than a steam-generated process unit.

(I) "Stationary steam engine" means an engine or turbine in which the mechanical force arising from the elasticity and expansion action of steam or from its property of rapid condensation or from a combination of the two is made available as a motive power.

Sec. 4104.02. The board of building standards shall:

(A) Formulate rules for the construction, installation, ~~inspection~~, repair, conservation of energy, and operation of boilers and the construction, ~~inspection~~, and repair of ~~unfired~~ pressure vessels and for ascertaining the safe working pressures to be carried on such boilers and ~~unfired~~ pressure vessels and the qualification of inspectors of boilers and ~~unfired~~ pressure vessels;

(B) Prescribe tests, if it is considered necessary, to ascertain the qualities of materials used in the construction of boilers and ~~unfired~~ pressure vessels;

(C) Adopt rules regulating the construction and sizes of safety valves for boilers and ~~unfired~~ pressure vessels of different sizes and pressures, for the construction, use, and location of fusible plugs, appliances for indicating the pressure of steam and level of water in the boiler or ~~unfired~~ pressure vessels, and such other appliances as the board considers necessary to safety in operating boilers;

(D) Establish reasonable fees for the performance of reviews, surveys, or audits of manufacturer's facilities by the division of industrial compliance for certification by the American society of mechanical engineers and the national board of boiler and pressure vessel inspectors;

(E) The definitions and rules adopted by the board for the construction, installation, ~~inspection~~, repair, conservation of energy, and operation of boilers and the construction, ~~inspection~~, and repair of ~~unfired~~ pressure vessels and for ascertaining the safe working pressures to be used on such boilers and ~~unfired~~ pressure vessels shall be based upon and follow generally accepted engineering standards, formulae, and practices established and pertaining to boilers and ~~unfired~~ pressure vessel construction, operation, and safety, and the board may, for this purpose,

adopt existing published standards as well as amendments thereto subsequently published by the same authority.

When a person desires to manufacture a special type of boiler or ~~unfired~~ pressure vessel, the design of which is not covered by the rules of the board, the person shall submit drawings and specifications of such boiler or ~~unfired~~ pressure vessel to the board for investigation, after which the board may permit its installation.

The provisions of sections 119.03 and 119.11 of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules pursuant to this section.

Sec. 4104.04. (A) Sections 4104.01 to 4104.20 and section 4104.99 of the Revised Code do not apply to the following boilers and ~~unfired~~ pressure vessels:

(1) Boilers, ~~unfired~~ pressure vessels, and stationary steam engines under federal control or subject to inspection under federal laws;

(2) Air tanks located on vehicles operating under the rules of other state authorities and used for carrying passengers, or freight;

(3) Air tanks installed on the right of way of railroads and used directly in the operation of trains;

(4) ~~Unfired-pressure~~ Pressure vessels ~~which that~~ are under the regulation and control of the state fire marshal under Chapter 3737. of the Revised Code.

(B) The following boilers and ~~unfired~~ pressure vessels are exempt from the requirements of sections 4104.10, 4104.101, 4104.11, 4104.12, and 4104.13 of the Revised Code, but shall be equipped with such appliances, to insure safety of operation, as are prescribed by the board:

(1) Portable boilers or ~~unfired~~ pressure vessels when located on farms and used solely for agricultural purposes;

(2) Steam or vapor boilers carrying a pressure of not more than fifteen psig, which are located in private residences or in apartment houses of less than six family units;

(3) Hot water boilers operated at pressures not exceeding one hundred sixty psig, or temperatures not exceeding two hundred fifty degrees fahrenheit, which are located in private residences or in apartment houses of less than six family units;

(4) ~~Unfired-pressure~~ Pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six

family units;

(5) Portable boilers used in pumping, heating, steaming, and drilling, in the open field, for water, gas, and oil;

(6) Portable boilers used in the construction of and repair to public roads, railroads, and bridges;

(7) Historical steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use.

Sec. 4104.06. (A) The inspection of boilers and their appurtenances and ~~unfired~~ pressure vessels shall be made by the inspectors mentioned in sections 4104.07 to 4104.20 of the Revised Code. The superintendent of industrial compliance shall administer and enforce such sections and rules adopted by the board of building standards pursuant to section 4104.02 of the Revised Code.

(B) The superintendent shall adopt, amend, and repeal rules exclusively for the issuance, renewal, suspension, and revocation of certificates of competency and certificates of operation, for conducting hearings in accordance with Chapter 119. of the Revised Code related to these actions, and for the inspection of boilers and their appurtenances, and ~~unfired~~ pressure vessels.

(C) Notwithstanding division (B) of this section, the superintendent shall not adopt rules relating to construction, maintenance, or repair of boilers and their appurtenances, or repair of ~~unfired~~ pressure vessels.

(D) The superintendent and each general inspector may enter any premises and any building or room at all reasonable hours to perform an examination or inspection.

Sec. 4104.07. (A) An application for examination as an inspector of boilers and ~~unfired~~ pressure vessels shall be in writing, accompanied by a fee of fifty dollars, upon a blank to be furnished by the superintendent of industrial compliance. Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(B) The superintendent shall determine if an applicant meets all the requirements for examination in accordance with rules adopted by the board of building standards under section 4104.02 of the Revised Code. An application shall be rejected which contains any willful falsification, or untruthful statements.

(C) An applicant shall be examined by the superintendent, by a written examination, prescribed by the board, dealing with the construction, installation, operation, maintenance, and repair of boilers and ~~unfired~~ pressure vessels and their appurtenances, and the applicant shall be accepted

or rejected on the merits of the applicant's application and examination.

(D) Upon a favorable report by the superintendent of the result of an examination, the superintendent shall immediately issue to the successful applicant a certificate of competency to that effect.

Sec. 4104.08. (A) The director of commerce may appoint from the holders of certificates of competency provided for in section 4104.07 of the Revised Code, general inspectors of boilers and ~~unfired~~ pressure vessels.

(B) Any company authorized to insure boilers and ~~unfired~~ pressure vessels against explosion in this state may designate from holders of certificates of competency issued by the superintendent of industrial compliance, or holders of certificates of competency or commissions issued by other states or nations whose examinations for certificates or commissions have been approved by the board of building standards, persons to inspect and stamp boilers and ~~unfired~~ pressure vessels covered by the company's policies, and the superintendent shall issue to such persons commissions authorizing them to act as special inspectors. Special inspectors shall be compensated by the company designating them.

(C) The director of commerce shall establish an annual fee to be charged by the superintendent for each certificate of competency or commission the superintendent issues.

(D) The superintendent shall issue to each general or special inspector a commission to the effect that the holder thereof is authorized to inspect boilers and ~~unfired~~ pressure vessels in this state.

(E) No person shall be authorized to act as a general inspector or a special inspector who is directly or indirectly interested in the manufacture or sale of boilers or ~~unfired~~ pressure vessels.

Sec. 4104.15. (A) All certificates of inspection for boilers, issued prior to October 15, 1965, are valid and effective for the period set forth in such certificates unless sooner withdrawn by the superintendent of industrial compliance. The owner or user of any such boiler shall obtain an appropriate certificate of operation for such boiler, and shall not operate such boiler, or permit it to be operated unless a certificate of operation has been obtained in accordance with section 4104.17 of the Revised Code.

(B) If, upon making the internal and external inspection required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the Revised Code, a certificate of operation which shall state the maximum

pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or ~~unfired~~ pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or ~~unfired~~ pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or ~~unfired~~ pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that ~~an unfired~~ a pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the ~~unfired~~ pressure vessel or boiler and order, in writing, the operator or owner of the ~~unfired~~ pressure vessel or boiler to immediately cease the ~~unfired~~ pressure vessel's or boiler's operation. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied, or for a period of seventy-two hours from the time of issuance, whichever occurs first. During the seventy-two-hour period, the superintendent may request that the prosecuting attorney or city attorney of Franklin county or of the county in which the ~~unfired~~ pressure vessel or boiler is located obtain an injunction restraining the operator or owner of the ~~unfired~~ pressure vessel or boiler from continuing its operation after the seventy-two-hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(E) Each boiler which has been inspected shall be assigned a number by the superintendent, which number shall be stamped on a nonferrous metal tag affixed to the boiler or its fittings by seal or otherwise. No person except an inspector shall deface or remove any such number or tag.

(F) If the owner or user of any ~~unfired~~ pressure vessel or boiler disagrees with the inspector as to the necessity for shutting down ~~an unfired~~ a pressure vessel or boiler or for making repairs or alterations in it, or taking

any other measures for safety that are requested by an inspector, the owner or user may appeal from the decision of the inspector to the superintendent, who may, after such other inspection by a general inspector or special inspector as the superintendent deems necessary, decide the issue.

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, nor an inspection or report by any inspector, shall relieve the owner or user of ~~an unfired~~ a pressure vessel or boiler of the duty of using due care in the inspection, operation, and repair of the ~~unfired~~ pressure vessel or boiler or of any liability for damages for failure to inspect, repair, or operate the ~~unfired~~ pressure vessel or boiler safely.

Sec. 4104.18. (A) The owner or user of a boiler required under section 4104.12 of the Revised Code to be inspected upon installation, and the owner or user of a boiler for which a certificate of inspection has been issued which is replaced with an appropriate certificate of operation, shall pay to the superintendent of industrial compliance a fee in the amount of ~~thirty~~ forty-five dollars for boilers subject to annual inspections under section 4104.11 of the Revised Code, ~~sixty~~ ninety dollars for boilers subject to biennial inspection under section 4104.13 of the Revised Code, ~~ninety~~ one hundred thirty-five dollars for boilers subject to triennial inspection under section 4104.11 of the Revised Code, or ~~one~~ two hundred ~~fifty~~ twenty-five dollars for boilers subject to quinquennial inspection under section 4104.13 of the Revised Code.

A renewal fee in the amount of ~~thirty~~ forty-five dollars shall be paid to the treasurer of state before the renewal of any certificate of operation.

(B) The fee for complete inspection during construction by a general inspector on boilers and ~~unfired~~ pressure vessels manufactured within the state shall be thirty-five dollars per hour. Boiler and ~~unfired~~ pressure vessel manufacturers other than those located in the state may secure inspection by a general inspector on work during construction, upon application to the superintendent, and upon payment of a fee of thirty-five dollars per hour, plus the necessary traveling and hotel expenses incurred by the inspector.

(C) The application fee for applicants for steam engineer, high pressure boiler operator, or low pressure boiler operator licenses is fifty dollars. The fee for each original or renewal steam engineer, high pressure boiler operator, or low pressure boiler operator license is thirty-five dollars.

(D) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A), (B), and (C) of this section, ~~provided that such fees do not exceed the amounts established in this section by more than fifty per cent.~~ Any moneys collected under this section shall be paid into the state treasury to the credit

of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(E) Any person who fails to pay an invoiced renewal fee or an invoiced inspection fee required for any inspection conducted by the division of industrial compliance pursuant to this chapter within forty-five days of the invoice date shall pay a late payment fee equal to twenty-five per cent of the invoiced fee.

(F) In addition to the fees assessed in divisions (A) and (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under division (A) of this section and for each inspection conducted under division (B) of this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

Sec. 4104.19. (A) Any person seeking a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator shall file a written application with the superintendent of industrial compliance on a form prescribed by the superintendent with the appropriate application fee as set forth in section 4104.18 of the Revised Code. The application shall contain information satisfactory to the superintendent to demonstrate that the applicant meets the requirements of division (B) of this section. The application shall be filed with the superintendent not more than sixty days and not less than thirty days before the license examination is offered.

(B) To qualify to take the examination required to obtain a steam engineer, high pressure boiler operator, or low pressure boiler operator license, a person shall meet both of the following requirements:

(1) Be at least eighteen years of age;

(2) Have one year of experience in the operation of steam engines, high pressure boilers, or low pressure boilers as applicable to the type of license being sought, or a combination of experience and education for the type of license sought as determined to be acceptable by the superintendent.

(C) No applicant shall qualify to take an examination or to renew a license if the applicant has violated this chapter or if the applicant has obtained or renewed a license issued under this chapter by fraud, misrepresentation, or deception.

(D) The superintendent shall issue a license to each applicant who receives a passing score on the examination, as determined by the superintendent, for the license for which the applicant applied.

(E) The superintendent ~~shall~~ may select and contract with one or more persons to do all of the following relative to the examinations for a license to operate as a steam engineer, high pressure boiler operator, or low pressure boiler operator:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to fulfill division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination, in an amount authorized by the superintendent;

(4) Design the examination for each type of license to determine an applicant's competence to operate the equipment for which the applicant is seeking licensure.

(F) Each license issued under this chapter expires one year after the date of issue. Each person holding a valid, unexpired license may renew the license, without reexamination, by applying to the superintendent not more than ninety days before the expiration of the license, and submitting with the application the renewal fee established in section 4104.18 of the Revised Code. Upon receipt of the renewal information and fee, the superintendent shall issue the licensee a certificate of renewal.

(G) The superintendent, in accordance with Chapter 119. of the Revised Code, may suspend or revoke any license, or may refuse to issue a license under this chapter upon finding that a licensee or an applicant for a license has violated or is violating the requirements of this chapter.

Sec. 4104.20. No owner or operator of any boiler shall operate the same in violation of sections 4104.11 to 4104.16, inclusive, and 4104.18 of the Revised Code, or of any rule or regulation adopted by the board of building standards, pursuant to section 4104.02 of the Revised Code, or without having a boiler inspected and a certificate of operation issued therefor as provided in such sections or hinder or prevent a general or special inspector of boilers from entering any premises in or on which a boiler is situated for the purpose of inspection. No owner or operator of any ~~unfired~~ pressure vessel shall operate the same in violation of section 4104.10 of the Revised Code, or of any rule or regulation adopted by the board of building standards, pursuant to section 4104.02 of the Revised Code.

Sec. 4104.41. ~~(A)~~ As used in sections 4104.41 to ~~4104.45~~ 4104.48 of the Revised Code:

~~(1)~~(A) "Liquefied petroleum gas" means any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, normal butane, or isobutane or butylenes.

~~(2)(B)~~ "Other gaseous piping systems" excludes natural gas piping gas systems.

~~(B) The director of commerce shall appoint general inspectors of power, refrigerating, hydraulic, heating, and liquefied petroleum gas piping systems. Such inspectors shall be appointed from holders of certificates of competency provided for in section 4104.42 of the Revised Code.~~

~~Salaries shall be appropriated in the same manner as the salaries of other employees of state departments, and expenses of such general inspectors shall be provided for in the same manner as the expenses of other employees of state departments.~~

Sec. 4104.42. (A) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems shall conduct tests required under rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code and certify in writing on forms provided under section 4104.43 of the Revised Code by the superintendent of industrial compliance in the department of commerce that the welding and brazing procedures used in the construction of those power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems meet the standards established by the board under division (A)(1) of section 4104.44 of the Revised Code.

(B) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who causes welding or brazing to be performed in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems shall maintain at least one copy of the forms described in division (A) of this section and make that copy accessible to any individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code.

(C) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code shall examine the forms described in division (A) of this section to determine compliance with the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

(D) An individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code with reason to question the certification or ability of any welder or brazer shall report the concerns to the superintendent of the division of industrial compliance in the department of commerce. The superintendent shall investigate those

concerns. If the superintendent finds facts that substantiate the concerns of the individual certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code, the superintendent may require the welder or brazer in question to become recertified by a private vendor in the same manner by which five-year recertification is required under section 4104.46 of the Revised Code. The superintendent also may utilize the services of an independent testing laboratory to witness the welding or brazing performed on the project in question and to conduct tests on coupons to determine whether the coupons meet the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

Sec. 4104.43. (A) Each manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who causes welding or brazing to be performed in the construction of a power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system shall file with the superintendent of the division of industrial compliance two complete copies of forms provided by the superintendent that identify the welding and brazing procedure specifications and welder and brazer performance qualifications performed in the construction of that power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping system.

(B)(1) Upon receipt of the forms filed under division (A) of this section, the superintendent shall review the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms to determine compliance with rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code.

(2) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance qualifications comply with the requirements of the rules adopted by the board of building standards under division (A)(1) of section 4104.44 of the Revised Code, the superintendent shall approve the welding and brazing procedure specifications and welder and brazer performance qualifications as indicated on the forms and return one copy to the manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who submitted the forms.

(3) If the superintendent finds that the welding and brazing procedure specifications and welder and brazer performance qualifications do not comply with the requirements of the rules adopted by the board of building

standards under division (A)(1) of section 4104.44 of the Revised Code, the superintendent shall indicate on the forms that the welding and brazing procedure specifications and welder and brazer performance qualifications are not approved and return one copy of the form to the manufacturer, contractor, owner, or user of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems who submitted the forms with an explanation of why the welding and brazing procedure specifications and welder and brazer performance qualifications were not approved.

Sec. 4104.44. (A) The board of building standards, established by section 3781.07 of the Revised Code, shall:

(1) ~~Formulate~~ Adopt rules governing the design, plan review, approval, construction, and installation of power, refrigerating, hydraulic, heating, and liquefied petroleum gas, oxygen, and other gaseous piping systems. ~~Such~~ The board of building standards may include the rules for piping systems with the rules it adopts for buildings pursuant to section 3781.10 of the Revised Code or with the rules it adopts for piping systems pursuant to this section. The rules shall prescribe uniform minimum standards necessary for the protection of the public health and safety and shall include rules establishing the safe working pressure to be carried by any such systems; a program for the certification of the welding and brazing procedures proposed to be used on any such system by the owner or operator of any welding or brazing business and for quinquennial performance testing of welders and brazers who work on any such system; and measures for the conservation of energy. ~~Such~~ The rules shall be based upon and follow generally accepted engineering standards, formulas, and practices established and pertaining to such piping construction, installation, and testing. The board may, for this purpose, adopt existing published standards, as well as amendments thereto subsequently published by the same authority.

(2) Prescribe the tests, to ascertain the qualities of materials and welding and brazing materials used in the construction of power, refrigerating, hydraulic, heating, and liquefied petroleum gas, oxygen, and other gaseous piping systems;

(3) Make a standard form of certificate of inspection;

(4) ~~Prescribe the examinations for applicants for certificates of competency provided for in section 4104.42 of the Revised Code and performance tests to determine the proficiency of welders and brazers;~~

(5) Certify municipal and county building departments to inspect power, refrigerating, hydraulic, heating, and liquefied petroleum gas, oxygen, and

other gaseous piping systems and adopt rules governing such certification;

~~(6) Establish the fee to be charged for an inspection made by a general inspector and for the filing and auditing of special inspector reports, and collect all fees established in this section.~~

The fee for the quinquennial performance tests shall be fifteen dollars and the fee for certification of welding and brazing procedures mentioned in division (A) of this section shall be sixty dollars, except that the board of building standards, with the approval of the controlling board, may establish fees in excess of these fees, provided that the fees do not exceed the amounts of these fees by more than fifty per cent. The fee for each welding and brazing instruction sheet and procedure qualification record shall be fifteen dollars. Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

~~(B) Piping is exempt from the requirements for submission of applications and inspections and the necessity to obtain permits, as required under this section and section 4104.45 of the Revised Code, or under rules adopted pursuant to those sections, for power, refrigerating, hydraulic, heating, and liquefied petroleum gas, oxygen, and gaseous piping systems if the piping is used:~~

~~(1) In air cooling systems in residential or commercial buildings and if such systems do not exceed five tons (sixty thousand British thermal units per hour) per system; or~~

~~(2) In air heating systems in residential or commercial buildings and if such systems do not exceed one hundred fifty thousand British thermal units per hour per system.~~

~~(C) The board of building standards may, by rule, exempt from the rules adopted pursuant to division (A)(1) of this section any pressure piping power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems which that pose no appreciable danger to the public health and safety.~~

Sec. 4104.45. (A) Except as otherwise provided in section 4104.44 of the Revised Code, new power, refrigerating, hydraulic, heating, liquefied petroleum gas, oxygen, and other gaseous piping systems shall be thoroughly inspected in accordance with the rules of the board of building standards. Such ~~inspection~~ inspections shall be performed by ~~one of the following:~~

~~(1) General inspectors of pressure piping systems;~~

~~(2) Special inspectors provided for in section 4104.43 of the Revised Code;~~

~~(3) Local inspectors provided for in section 4104.43 of the Revised Code.~~

~~(B) Owners or users of pressure piping systems required to be inspected under this section shall pay to the division of industrial compliance in the department of commerce a fee of one hundred fifty dollars plus an additional fee determined as follows:~~

~~(1) On or before June 30, 2000, two per cent of the actual cost of the system for each inspection made by a general inspector;~~

~~(2) On July 1, 2000, and through June 30, 2001, one and eight-tenths per cent of the actual cost of the system for each inspection made by a general inspector;~~

~~(3) On and after July 1, 2001, one per cent of the actual cost of the system for each inspection made by a general inspector.~~

~~(C) The board of building standards, subject to the approval of the controlling board, may establish a fee in excess of the fee provided in division (B) of this section, provided that the fee does not exceed the amount established in this section by more than fifty per cent.~~

~~(D) In addition to the fee assessed in division (B) of this section, the board of building standards shall assess the owner or user a fee of three dollars and twenty-five cents for each system inspected pursuant to this section. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of the division of industrial compliance in the department of commerce shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.~~

~~(E) Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.~~

~~(F) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee inspectors designated by the superintendent of the division of industrial compliance in the department of commerce or, within jurisdictional limits established by the board of building standards, by individuals certified by the board of building standards pursuant to division (E) of section 3781.10 of the Revised Code who are designated to do so by local building departments, as appropriate.~~

~~(G)(B) The superintendent of the division of industrial compliance in the department of commerce may issue adjudication orders as necessary for the enforcement of sections 4104.41 to 4104.46 4104.48 of the Revised~~

Code and rules adopted under those sections. No person shall violate or fail to comply with the terms and conditions of an adjudication order issued under this division. Adjudication orders issued pursuant to this division and appeals thereof are governed by section 3781.19 of the Revised Code.

Sec. 4104.46. (A) The design, installation, and testing of nonflammable medical gas and vacuum piping systems within the scope of the national fire protection association standard, section 1-1 of "NFPA 99C, Gas and Vacuum Systems," is governed by that national fire protection association standard.

(B) Installers, inspectors, verifiers, construction contracting maintenance personnel, and instructors for the design, installation, and testing of nonflammable medical gas and vacuum piping systems shall obtain certification by the American society of sanitary engineers in accordance with the American society of sanitary engineering series 6000 requirements.

Sec. 4104.47. (A) No individual other than one certified by a private vendor in accordance with rules adopted by the board of building standards shall perform welding or brazing or both in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems.

(B) Each welder or brazer certified by a private vendor to perform welding or brazing or both in the construction of power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, or other gaseous piping systems shall be recertified by a private vendor to perform those services five years after the date of the original certification and every five years thereafter in accordance with rules adopted by the board. A private vendor shall recertify a welder or brazer who meets the requirements established by the board under division (A)(1) of section 4104.44 of the Revised Code.

Sec. 4104.46 4104.48. (A) No person shall violate sections 4104.41 to 4104.46 4104.48 of the Revised Code, fail to perform any duty lawfully enjoined in connection with those sections, or fail to comply with any order issued by the superintendent of the division of industrial compliance or any judgment or decree issued by any court in connection with the enforcement of sections 4104.41 to 4104.46 4104.48 of the Revised Code.

(B) Every day during which a person violates sections 4104.41 to 4104.46 4104.48 of the Revised Code, fails to perform any duty lawfully enjoined in connection with those sections, or fails to comply with any order issued by the superintendent of the division of industrial compliance or any judgment or decree issued by any court in connection with the enforcement

of sections 4104.41 to ~~4104.46~~ 4104.48 of the Revised Code constitutes a separate offense.

Sec. 4105.17. (A) The fee for each inspection, or attempted inspection that, due to no fault of a general inspector or the division of industrial compliance, is not successfully completed, by a general inspector before the operation of a permanent new elevator prior to the issuance of a certificate of operation, before operation of an elevator being put back into service after a repair, or as a result of the operation of section 4105.08 of the Revised Code and is an elevator required to be inspected under this chapter is twenty dollars plus ten dollars for each floor where the elevator stops. The superintendent of industrial compliance may assess an additional fee of one hundred twenty-five dollars plus five dollars for each floor where an elevator stops for the reinspection of an elevator when a previous attempt to inspect that elevator has been unsuccessful through no fault of a general inspector or the division of industrial compliance.

(B) The fee for each inspection, or attempted inspection, that due to no fault of the general inspector or the division of industrial compliance, is not successfully completed by a general inspector before operation of a permanent new escalator or moving walk prior to the issuance of a certificate of operation, before operation of an escalator or moving walk being put back in service after a repair, or as a result of the operation of section 4105.08 of the Revised Code is three hundred dollars. The superintendent of the division of industrial compliance may assess an additional fee of one hundred fifty dollars for the reinspection of an escalator or moving walk when a previous attempt to inspect that escalator or moving walk has been unsuccessful through no fault of the general inspector or the division of industrial compliance.

(C) The fee for issuing or renewing a certificate of operation under section 4105.15 of the Revised Code for an elevator that is inspected every six months in accordance with division (A) of section 4105.10 of the Revised Code is ~~one two~~ two hundred ~~five~~ dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(D) The fee for issuing or renewing a certificate of operation under section 4105.05 of the Revised Code for an elevator that is inspected every twelve months in accordance with division (A) of section 4105.10 of the Revised Code is fifty-five dollars plus ten dollars for each floor where the elevator stops, except where the elevator has been inspected by a special inspector in accordance with section 4105.07 of the Revised Code.

(E) The fee for issuing or renewing a certificate of operation under

section 4105.15 of the Revised Code for an escalator or moving walk is three hundred dollars, except where the escalator or moving walk has been inspected by a special inspector in accordance section 4105.07 of the Revised Code.

(F) All other fees to be charged for any examination given or other service performed by the division of industrial compliance pursuant to this chapter shall be prescribed by the director of commerce. The fees shall be reasonably related to the costs of such examination or other service.

(G) The director of commerce, subject to the approval of the controlling board, may establish fees in excess of the fees provided in divisions (A) ~~and (B), (C), (D), and (E)~~ of this section, ~~provided that the fees do not exceed the amounts established in divisions (A) and (B) of this section by more than fifty per cent.~~ Any moneys collected under this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(H) Any person who fails to pay an inspection fee required for any inspection conducted by the division pursuant to this chapter within forty-five days after the inspection is conducted shall pay a late payment fee equal to twenty-five per cent of the inspection fee.

(I) In addition to the fees assessed in divisions (A), (B), (C), ~~and (D), and (E)~~ of this section, the board of building standards shall assess a fee of three dollars and twenty-five cents for each certificate of operation or renewal thereof issued under ~~division~~ divisions (A), (B), (C), (D), or (E) of this section and for each permit issued under section 4105.16 of the Revised Code. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner by which the superintendent of industrial compliance shall collect and remit to the board the fees assessed under this division and requiring that remittance of the fees be made at least quarterly.

(J) For purposes of this section:

(1) "Escalator" means a power driven, inclined, continuous stairway used for raising or lowering passengers.

(2) "Moving walk" means a passenger carrying device on which passengers stand or walk, with a passenger carrying surface that is uninterrupted and remains parallel to its direction of motion.

Sec. 4112.15. There is hereby created in the state treasury the civil rights commission general reimbursement fund, which shall be used to pay operating costs of the commission. All amounts received by the commission, and all amounts awarded by a court to the commission, for attorney's fees, court costs, expert witness fees, and other litigation expenses

shall be paid into the state treasury to the credit of the fund. All ~~money paid to amounts received by~~ the commission for copies of commission documents and for other goods and services furnished by the commission shall be ~~credited~~ paid into the state treasury to the credit of the fund.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B)(1) or (2) of section 4115.03 of the Revised Code, adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the penalty enforcement fund, which is hereby created in the state treasury. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ~~sixty~~ ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. ~~At the written request~~ The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing wage in violation of this chapter. Upon receipt of a properly completed written complaint of any employee paid less than the prevailing rate of wages

applicable, the director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section;

The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing resources and to assist in enforcing division (E) of this section, the director may contract with a person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

Sec. 4115.21. A person who files a complaint with the director of commerce alleging a violation of sections 4115.03 to 4115.16 of the Revised Code shall file the complaint within two years after the completion of the

public improvement upon which the violation is alleged to have occurred or be barred from further administrative action under this chapter.

Sec. 4117.02. (A) There is hereby created the state employment relations board, consisting of three members to be appointed by the governor with the advice and consent of the senate. Members shall be knowledgeable about labor relations or personnel practices. No more than two of the three members shall belong to the same political party. A member of the board during the member's period of service shall hold no other public office or public or private employment and shall allow no other responsibilities to interfere or conflict with the member's duties as a full-time board member. Of the initial appointments made to the board, one shall be for a term ending October 6, 1984, one shall be for a term ending October 6, 1985, and one shall be for a term ending October 6, 1986. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The

~~The governor shall designate one member to serve as chairperson of the board.~~ The governor may remove any member of the board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(B) A (1) The governor shall designate one member of the board to serve as chairperson of the board. The chairperson is the head of the board and its chief executive officer.

(2) The chairperson shall exercise all administrative powers and duties conferred upon the board under this chapter and shall do all of the following:

(a) Except as provided in division (F)(2) of this section, employ, promote, supervise, and remove all employees of the board, and establish, change, or abolish positions and assign or reassign the duties of those employees as the chairperson determines necessary to achieve the most efficient performance of the board's duties under this chapter;

(b) Maintain the office of the board in Columbus and manage the office's daily operations, including securing facilities, equipment, and supplies necessary to house the board, employees of the board, and files and

records under the board's control:

(c) Prepare and submit to the office of budget and management a budget for each biennium according to section 107.03 of the Revised Code, and include in the budget the costs of the board and its staff and the board's costs in discharging any duty imposed by law upon the board, the chairperson, or any of the board's employees or agents.

(C) The vacancy on the board does not impair the right of the remaining members to exercise all the powers of the board, and two members of the board, at all times, constitute a quorum. The board shall have an official seal of which courts shall take judicial notice.

~~(C)~~(D) The board shall make an annual report in writing to the governor and to the general assembly, stating in detail the work it has done.

~~(D)~~(E) Compensation of the chairperson and members shall be in accordance with division (J) of section 124.15 of the Revised Code. The chairperson and the members are eligible for reappointment. In addition to such compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

~~(E)~~(F)(1) The chairperson, after consulting with the other board members and receiving the consent of at least one other board member, shall appoint an executive director and. The chairperson also shall appoint attorneys; and attorney-trial examiners, mediators, arbitrators, members of fact-finding panels, directors for local areas, and other employees as it finds necessary for the proper performance of its duties and may prescribe their duties. The

(2) The board shall appoint mediators, arbitrators, members of fact-finding panels, and directors for local areas, and shall prescribe their job duties.

(G)(1) The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall do all of the following:

(a) Act as chief administrative officer for the board;

(b) Ensure that all employees of the board comply with the rules of the board;

(c) Do all things necessary for the efficient and effective implementation of the duties of the board.

(2) The duties of the executive director described in division (G)(1) of this section do not relieve the chairperson from final responsibility for the proper performance of the duties described in that division.

(H) The attorney general shall be the legal adviser of the board and shall appear for and represent the board and its agents in all legal proceedings.

The board may utilize regional, local, or other agencies, and utilize voluntary and uncompensated services as needed. The board may contract with the federal mediation and conciliation service for the assistance of mediators, arbitrators, and other personnel the service makes available. The board and the chairperson, respectively, shall appoint all employees on the basis of training, practical experience, education, and character, notwithstanding the requirements established by section 119.09 of the Revised Code. The board shall give special regard to the practical training and experience that employees have for the particular position involved. All full-time employees of the board excepting the executive director, the head of the bureau of mediation, and the personal secretaries and assistants of the board members are in the classified service. All employees of the board shall be paid in accordance with Chapter 124. of the Revised Code.

~~(F)~~(I) The board shall select and assign examiners and other agents whose functions are to conduct hearings with due regard to their impartiality, judicial temperament, and knowledge. If in any proceeding under this chapter, any party prior to five days before the hearing thereto files with the board a sworn statement charging that the examiner or other agent designated to conduct the hearing is biased or partial in the proceeding, the board may disqualify the person and designate another examiner or agent to conduct the proceeding. At least ten days before any hearing, the board shall notify all parties to a proceeding of the name of the examiner or agent designated to conduct the hearing.

~~(G)~~(J) The principal office of the board is in Columbus, but it may meet and exercise any or all of its powers at any other place within the state. The board may, by one or more of its employees, or any agents or agencies it designates, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions; provided, that no person so designated may later sit in determination of an appeal of the decision of that cause or matter.

~~(H)~~(K) In addition to the powers and functions provided in other sections of this chapter, the board shall do all of the following:

(1) Create a bureau of mediation within the state employment relations board, to perform the functions provided in section 4117.14 of the Revised Code. This bureau shall also establish, after consulting representatives of employee organizations and public employers, panels of qualified persons to be available to serve as members of fact-finding panels and arbitrators.

(2) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;

(3) Hold hearings pursuant to this chapter and, for the purpose of the

hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any members of the board or any attorney-trial examiner appointed by the board for the performance of its functions;

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the board to carry out its functions and powers.

(6) Make available to employee organizations, public employers, mediators, fact-finding panels, arbitrators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(7) Notwithstanding section 119.13 of the Revised Code, establish standards of persons who practice before it;

(8) Adopt, amend, and rescind rules and procedures and exercise other powers appropriate to carry out this chapter. Before the adoption, amendment, or rescission of rules and procedures under this section, the board shall do all of the following:

(a) Maintain a list of interested public employers and employee organizations and mail notice to such groups of any proposed rule or procedure, amendment thereto, or rescission thereof at least thirty days before any public hearing thereon;

(b) Mail a copy of each proposed rule or procedure, amendment thereto, or rescission thereof to any person who requests a copy within five days after receipt of the request therefor;

(c) Consult with appropriate statewide organizations representing public employers or employees who would be affected by the proposed rule or procedure.

Although the board is expected to discharge these duties diligently, failure to mail any notice or copy, or to so consult with any person, is not jurisdictional and shall not be construed to invalidate any proceeding or action of the board.

~~(H)~~(L) In case of neglect or refusal to obey a subpoena issued to any

person, the court of common pleas of the county in which the investigation or the public hearing occurs, upon application by the board, may issue an order requiring the person to appear before the board and give testimony about the matter under investigation. The court may punish a failure to obey the order as contempt.

~~(J)~~(M) Any subpoena, notice of hearing, or other process or notice of the board issued under this section may be served personally, by certified mail, or by leaving a copy at the principal office or personal residence of the respondent required to be served. A return, made and verified by the individual making the service and setting forth the manner of service, is proof of service, and a return post office receipt, when certified mail is used, is proof of service. All process in any court to which application is made under this chapter may be served in the county wherein the persons required to be served reside or are found.

~~(K)~~(N) All expenses of the board, including all necessary traveling and subsistence expenses incurred by the members or employees of the board under its orders, shall be paid pursuant to itemized vouchers approved by the chairperson of the board, the executive director, or both, or such other person as the ~~board~~ chairperson designates for that purpose.

~~(L)~~(O) Whenever the board determines that a substantial controversy exists with respect to the application or interpretation of this chapter and the matter is of public or great general interest, the board shall certify its final order directly to the court of appeals having jurisdiction over the area in which the principal office of the public employer directly affected by the application or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the board to the interested parties shall contain a certification by the chairperson of the board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the board has standing to bring its final order properly before the court of appeals.

~~(M)~~(P) Except as otherwise specifically provided in this section, the board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for

legislative review under division (H) of section 119.03 of the Revised Code.

Sec. 4117.14. (A) The procedures contained in this section govern the settlement of disputes between an exclusive representative and a public employer concerning the termination or modification of an existing collective bargaining agreement or negotiation of a successor agreement, or the negotiation of an initial collective bargaining agreement.

(B)(1) In those cases where there exists a collective bargaining agreement, any public employer or exclusive representative desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall:

(a) Serve written notice upon the other party of the proposed termination, modification, or successor agreement. The party must serve the notice not less than sixty days prior to the expiration date of the existing agreement or, in the event the existing collective bargaining agreement does not contain an expiration date, not less than sixty days prior to the time it is proposed to make the termination or modifications or to make effective a successor agreement.

(b) Offer to bargain collectively with the other party for the purpose of modifying or terminating any existing agreement or negotiating a successor agreement;

(c) Notify the state employment relations board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.

(2) In the case of initial negotiations between a public employer and an exclusive representative, where a collective bargaining agreement has not been in effect between the parties, any party may serve notice upon the board and the other party setting forth the names and addresses of the parties and offering to meet, for a period of ninety days, with the other party for the purpose of negotiating a collective bargaining agreement.

If the settlement procedures specified in divisions (B), (C), and (D) of this section govern the parties, where those procedures refer to the expiration of a collective bargaining agreement, it means the expiration of the sixty-day period to negotiate a collective bargaining agreement referred to in this subdivision, or in the case of initial negotiations, it means the ninety day period referred to in this subdivision.

(3) The parties shall continue in full force and effect all the terms and conditions of any existing collective bargaining agreement, without resort to strike or lock-out, for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever occurs later, or for a period of ninety days where applicable.

(4) Upon receipt of the notice, the parties shall enter into collective bargaining.

(C) In the event the parties are unable to reach an agreement, they may submit, at any time prior to forty-five days before the expiration date of the collective bargaining agreement, the issues in dispute to any mutually agreed upon dispute settlement procedure which supersedes the procedures contained in this section.

(1) The procedures may include:

(a) Conventional arbitration of all unsettled issues;

(b) Arbitration confined to a choice between the last offer of each party to the agreement as a single package;

(c) Arbitration confined to a choice of the last offer of each party to the agreement on each issue submitted;

(d) The procedures described in division (C)(1)(a), (b), or (c) of this section and including among the choices for the arbitrator, the recommendations of the fact finder, if there are recommendations, either as a single package or on each issue submitted;

(e) Settlement by a citizens' conciliation council composed of three residents within the jurisdiction of the public employer. The public employer shall select one member and the exclusive representative shall select one member. The two members selected shall select the third member who shall chair the council. If the two members cannot agree upon a third member within five days after their appointments, the board shall appoint the third member. Once appointed, the council shall make a final settlement of the issues submitted to it pursuant to division (G) of this section.

(f) Any other dispute settlement procedure mutually agreed to by the parties.

(2) If, fifty days before the expiration date of the collective bargaining agreement, the parties are unable to reach an agreement, any party may request the state employment relations board to intervene. The request shall set forth the names and addresses of the parties, the issues involved, and, if applicable, the expiration date of any agreement.

The board shall intervene and investigate the dispute to determine whether the parties have engaged in collective bargaining.

If an impasse exists or forty-five days before the expiration date of the collective bargaining agreement if one exists, the board shall appoint a mediator to assist the parties in the collective bargaining process.

(3) ~~If the mediator after assisting the parties advises the board that the parties have reached an impasse, or not later than thirty-one days prior to the expiration date of the agreement~~ Any time after the appointment of a

mediator, either party may request the appointment of a fact-finding panel. Within fifteen days after receipt of a request for a fact-finding panel, the board shall appoint ~~within one day~~ a fact-finding panel of not more than three members who have been selected by the parties in accordance with rules established by the board, from a list of qualified persons maintained by the board.

(a) The fact-finding panel shall, in accordance with rules and procedures established by the board that include the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter. The board shall by its rules require each party to specify in writing the unresolved issues and its position on each issue to the fact-finding panel. The fact-finding panel shall make final recommendations as to all the unresolved issues.

(b) The board may continue mediation, order the parties to engage in collective bargaining until the expiration date of the agreement, or both.

(4) The following guidelines apply to fact-finding:

(a) The fact-finding panel may establish times and place of hearings which shall be, where feasible, in the jurisdiction of the state.

(b) The fact-finding panel shall conduct the hearing pursuant to rules established by the board.

(c) Upon request of the fact-finding panel, the board shall issue subpoenas for hearings conducted by the panel.

(d) The fact-finding panel may administer oaths.

(e) The board shall prescribe guidelines for the fact-finding panel to follow in making findings. In making its recommendations, the fact-finding panel shall take into consideration the factors listed in divisions (G)(7)(a) to (f) of this section.

(f) The fact-finding panel may attempt mediation at any time during the fact-finding process. From the time of appointment until the fact-finding panel makes a final recommendation, it shall not discuss the recommendations for settlement of the dispute with parties other than the direct parties to the dispute.

(5) The fact-finding panel, acting by a majority of its members, shall transmit its findings of fact and recommendations on the unresolved issues to the public employer and employee organization involved and to the board no later than fourteen days after the appointment of the fact-finding panel, unless the parties mutually agree to an extension. ~~The state parties shall pay one-half share the cost of the fact-finding panel. The parties each shall pay one-half of the remaining costs in a manner agreed to by the parties.~~

(6)(a) Not later than seven days after the findings and recommendations

are sent, the legislative body, by a three-fifths vote of its total membership, and in the case of the public employee organization, the membership, by a three-fifths vote of the total membership, may reject the recommendations; if neither rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted and a collective bargaining agreement shall be executed between the parties, including the fact-finding panel's recommendations, except as otherwise modified by the parties by mutual agreement. If either the legislative body or the public employee organization rejects the recommendations, the board shall publicize the findings of fact and recommendations of the fact-finding panel. The board shall adopt rules governing the procedures and methods for public employees to vote on the recommendations of the fact-finding panel.

(b) As used in division (C)(6)(a) of this section, "legislative body" means the controlling board when the state or any of its agencies, authorities, commissions, boards, or other branch of public employment is party to the fact-finding process.

(D) If the parties are unable to reach agreement within seven days after the publication of findings and recommendations from the fact-finding panel or the collective bargaining agreement, if one exists, has expired, then the:

(1) Public employees, who are members of a police or fire department, members of the state highway patrol, deputy sheriffs, dispatchers employed by a police, fire or sheriff's department or the state highway patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel and units, an exclusive nurse's unit, employees of the state school for the deaf or the state school for the blind, employees of any public employee retirement system, corrections officers, guards at penal or mental institutions, special police officers appointed in accordance with sections 5119.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, or youth leaders employed at juvenile correctional facilities, shall submit the matter to a final offer settlement procedure pursuant to a board order issued forthwith to the parties to settle by a conciliator selected by the parties. The parties shall request from the board a list of five qualified conciliators and the parties shall select a single conciliator from the list by alternate striking of names. If the parties cannot agree upon a conciliator within five days after the board order, the board shall on the sixth day after its order appoint a conciliator from a list of qualified persons maintained by the board or shall request a list of qualified conciliators from the American arbitration association and appoint therefrom.

(2) Public employees other than those listed in division (D)(1) of this section have the right to strike under Chapter 4117. of the Revised Code provided that the employee organization representing the employees has given a ten-day prior written notice of an intent to strike to the public employer and to the board, and further provided that the strike is for full, consecutive work days and the beginning date of the strike is at least ten work days after the ending date of the most recent prior strike involving the same bargaining unit; however, the board, at its discretion, may attempt mediation at any time.

(E) Nothing in this section shall be construed to prohibit the parties, at any time, from voluntarily agreeing to submit any or all of the issues in dispute to any other alternative dispute settlement procedure. An agreement or statutory requirement to arbitrate or to settle a dispute pursuant to a final offer settlement procedure and the award issued in accordance with the agreement or statutory requirement is enforceable in the same manner as specified in division (B) of section 4117.09 of the Revised Code.

(F) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or a conciliator's award as specified in division (B) of section 4117.09 of the Revised Code.

(G) The following guidelines apply to final offer settlement proceedings under division (D)(1) of this section:

(1) The parties shall submit to final offer settlement those issues that are subject to collective bargaining as provided by section 4117.08 of the Revised Code and upon which the parties have not reached agreement and other matters mutually agreed to by the public employer and the exclusive representative; except that the conciliator may attempt mediation at any time.

(2) The conciliator shall hold a hearing within thirty days of the board's order to submit to a final offer settlement procedure, or as soon thereafter as is practicable.

(3) The conciliator shall conduct the hearing pursuant to rules developed by the board. The conciliator shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the state. Not later than five calendar days before the hearing, each of the parties shall submit to the conciliator, to the opposing party, and to the board, a written report summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position.

(4) Upon the request by the conciliator, the board shall issue subpoenas for the hearing.

(5) The conciliator may administer oaths.

(6) The conciliator shall hear testimony from the parties and provide for a written record to be made of all statements at the hearing. The board shall submit for inclusion in the record and for consideration by the conciliator the written report and recommendation of the fact-finders.

(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration the following:

(a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

(8) Final offer settlement awards made under Chapter 4117. of the Revised Code are subject to Chapter 2711. of the Revised Code.

(9) If more than one conciliator is used, the determination must be by majority vote.

(10) The conciliator shall make written findings of fact and promulgate a written opinion and order upon the issues presented to the conciliator, and upon the record made before the conciliator and shall mail or otherwise deliver a true copy thereof to the parties and the board.

(11) Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the fiscal year next commencing after the date of the final offer settlement award; provided that if a new fiscal year has commenced since the issuance of the board order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's award or order by mutual agreement.

(12) The parties shall bear equally the cost of the final offer settlement procedure.

(13) Conciliators appointed pursuant to this section shall be residents of the state.

(H) All final offer settlement awards and orders of the conciliator made pursuant to Chapter 4117. of the Revised Code are subject to review by the court of common pleas having jurisdiction over the public employer as provided in Chapter 2711. of the Revised Code. If the public employer is located in more than one court of common pleas district, the court of common pleas in which the principal office of the chief executive is located has jurisdiction.

(I) The issuance of a final offer settlement award constitutes a binding mandate to the public employer and the exclusive representative to take whatever actions are necessary to implement the award.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or

other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code. The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code, ~~or~~ disability financial assistance provided under Chapter 5115. of the Revised Code, or disability medical assistance provided under Chapter 5115. of the Revised Code.

Sec. 4123.41. (A) By the first day of January of each year, the bureau of workers' compensation shall furnish to the county auditor of each county and the chief fiscal officer of each taxing district in a county and of each district activity and institution mentioned in section 4123.39 of the Revised Code forms containing the premium rates applicable to the county, district, district activity, or institution as an employer, on which to report the amount of money expended by the county, district, district activity, or institution during the previous twelve calendar months for the services of employees under this chapter.

(B) Each county auditor and each fiscal officer of a district, district activity, and institution shall calculate on the form it receives from the bureau under division (A) of this section the premium due as its proper

contribution to the public insurance fund and issue ~~his~~ a warrant in favor of the bureau for the amount due from the county, district, district activity, or institution to the public insurance fund according to the following schedule:

(1) On or before the fifteenth day of May of each year, no less than forty-five per cent of the amount due;

(2) On or before the first day of September of each year, no less than the total amount due.

The legislative body of any county, district, district activity, or institution may reimburse the fund from which the contribution is made by transferring to the fund from any other fund of the county, district, district activity, or institution, the proportionate amount of the contribution that should be chargeable to the fund, whether the fund is derived from taxation or otherwise. The proportionate amount of the contribution chargeable to the fund may be based on payroll, relative exposure, relative loss experience, or any combination of these factors, as determined by the legislative body. Within sixty days before a legislative body changes the method used for calculating the proportionate amount of the contribution chargeable to the fund, it shall notify, consult with, and give information supporting the change to any elected official affected by the change. A transfer made pursuant to division (B)(2) of this section is not subject to section 5705.16 of the Revised Code.

(C) The bureau may investigate the correctness of the information provided by the county auditor and chief fiscal officer under division (B) of this section, and if the bureau determines at any time that the county, district, district activity, or institution has not reported the correct information, the administrator of workers' compensation may make deductions or additions as the facts warrant and take those facts into consideration in determining the current or future contributions to be made by the county, district, district activity, or institution. If the county, district, district activity, or institution does not furnish the report in the time required by this section, the administrator may fix the amount of contribution the county, district, district activity, or institution must make and certify that amount for payment.

(D) The administrator shall provide a discount to any county, district, district activity, or institution that pays its total amount due to the public insurance fund on or before the fifteenth day of May of each year as its proper contribution for premiums. The administrator shall base the discount provided under this division on the savings generated by the early payment to the public insurance fund. The administrator may provide the discount through a refund to the county, district, district activity, or institution or an

offset against the future contributions due to the public insurance fund from the county, district, district activity, or institution.

(E) The administrator may impose an interest penalty for late payment of any amount due from a county, district, district activity, and institution at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

Sec. 4141.04. The director of job and family services shall maintain or ensure the existence of public employment offices that are free to the general public. These offices shall exist in such number and in such places as are necessary for the proper administration of this chapter, to perform such duties as are within the purview of the act of congress entitled "an act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, as amended, which is known as the "Wagner-Peyser Act." The director shall cooperate with any official or agency of the United States having powers or duties under that act of congress and shall do and perform all things necessary to secure to this state the benefits of that act of congress in the promotion and maintenance of a system of public employment offices. That act of congress is hereby accepted by this state, in conformity with that act of congress and Title III of the "Social Security Act," and the "Federal Unemployment Tax Act," 26 U.S.C.A. 3301, as amended, and this state will observe and comply with the requirements thereof. The department of job and family services is hereby designated and constituted the agency of this state for the purposes of that act of congress.

The director may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of employment service facilities that are free to the general public.

All moneys received by this state under the act of congress known as the Wagner-Peyser Act shall be ~~paid~~ deposited into the state treasury to the credit of the special employment service account in the ~~unemployment compensation administration~~ federal operating fund, which is hereby created. Those moneys are hereby made available to the director to be expended as provided by this section and by that act of congress. For the purpose of establishing and maintaining public employment offices that are free to the general public, the director may enter into agreements with the railroad retirement board or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this state, or with any private, nonprofit organization and as a part of any such agreement the director may accept moneys,

services, or quarters as a contribution to the employment service account.

The director shall maintain labor market information and employment statistics as necessary for the administration of this chapter.

The director shall appoint an employee of the department to serve as an ex officio member of the governor's council to maintain a liaison between the department and the governor's council on people with disabilities.

Sec. 4141.09. (A) There is hereby created an unemployment compensation fund to be administered by the state without liability on the part of the state beyond the amounts paid into the fund and earned by the fund. The unemployment compensation fund shall consist of all contributions, payments in lieu of contributions described in sections 4141.241 and 4141.242 of the Revised Code, reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code, collected under sections 4141.01 to 4141.46 of the Revised Code, together with all interest earned upon any moneys deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," any property or securities acquired through the use of moneys belonging to the fund, and all earnings of such property or securities. The unemployment compensation fund shall be used to pay benefits and refunds as provided by such sections and for no other purpose.

(B) The treasurer of state shall be the custodian of the unemployment compensation fund and shall administer such fund in accordance with the directions of the director of job and family services. All disbursements therefrom shall be paid by the treasurer of state on warrants drawn by the director. Such warrants may bear the facsimile signature of the director printed thereon and that of a deputy or other employee of the director charged with the duty of keeping the account of the unemployment compensation fund and with the preparation of warrants for the payment of benefits to the persons entitled thereto. Moneys in the clearing and benefit accounts shall not be commingled with other state funds, except as provided in division (C) of this section, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by sections 135.01 to 135.21 of the Revised Code; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state. All sums recovered for losses sustained by the unemployment compensation fund shall be deposited therein. The treasurer of state shall be liable on the treasurer's official bond for the

faithful performance of the treasurer's duties in connection with the unemployment compensation fund, such liability to exist in addition to any liability upon any separate bond.

(C) The treasurer of state shall maintain within the unemployment compensation fund three separate accounts which shall be a clearing account, an unemployment trust fund account, and a benefit account. All moneys payable to the unemployment compensation fund, upon receipt thereof by the director, shall be forwarded to the treasurer of state, who shall immediately deposit them in the clearing account. Refunds of contributions, or payments in lieu of contributions, payable pursuant to division (E) of this section may be paid from the clearing account upon warrants signed by a deputy or other employee of the director charged with the duty of keeping the record of the clearing account and with the preparation of warrants for the payment of refunds to persons entitled thereto. After clearance thereof, all moneys in the clearing account shall be deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," in accordance with requirements of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Federal funds, other than funds received by the director under divisions (I) and (J) of this section, received for payment of federal benefits may be deposited into the benefit account solely for payment of benefits under a federal program administered by this state. Moneys so requisitioned shall be used solely for the payment of benefits and for no other purpose. Moneys in the clearing and benefit accounts may be deposited by the treasurer of state, under the direction of the director, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

(D) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the director. The director shall requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this state's account therein, as are deemed necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the treasurer of state shall deposit such moneys in the benefit account. Expenditures of such money in the benefit account and refunds

from the clearing account shall not require specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the director, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in division (C) of this section. Unclaimed or unpaid federal funds redeposited with the secretary of the treasury of the United States shall be credited to the appropriate federal account.

(E) No claim for an adjustment or a refund on contribution, payment in lieu of contributions, interest, or forfeiture alleged to have been erroneously or illegally assessed or collected, or alleged to have been collected without authority, and no claim for an adjustment or a refund of any sum alleged to have been excessive or in any manner wrongfully collected shall be allowed unless an application, in writing, therefor is made within four years from the date on which such payment was made. If the director ~~determines~~ determines that such contribution, payment in lieu of contributions, ~~interest~~ interest, or forfeiture, or any portion ~~thereof~~ thereof, was erroneously collected, the director shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments, or payments in lieu of contributions, by the employer, or the director may refund said amount, without interest, from the clearing account of the unemployment compensation fund, except as provided in division (B) of section 4141.11 of the Revised Code. For like cause and within the same period, adjustment or refund may be so made on the director's own initiative. An overpayment of contribution, payment in lieu of contributions, interest, or forfeiture for which an employer has not made application for refund prior to the date of sale of the employer's business shall accrue to the employer's successor in interest.

An application for an adjustment or a refund, or any portion thereof, that is rejected is binding upon the employer unless, within thirty days after the mailing of a written notice of rejection to the employer's last known address, or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application for a review and redetermination setting forth the reasons therefor. The director shall promptly examine the application for review and redetermination, and if a review is granted, the employer shall be promptly notified thereof, and shall

be granted an opportunity for a prompt hearing.

(F) If the director finds that contributions have been paid to the director in error, and that such contributions should have been paid to a department of another state or of the United States charged with the administration of an unemployment compensation law, the director may upon request by such department or upon the director's own initiative transfer to such department the amount of such contributions, less any benefits paid to claimants whose wages were the basis for such contributions. The director may request and receive from such department any contributions or adjusted contributions paid in error to such department which should have been paid to the director.

(G) In accordance with section 303(c)(3) of the Social Security Act, and section 3304(a)(17) of the Internal Revenue Code of 1954 for continuing certification of Ohio unemployment compensation laws for administrative grants and for tax credits, any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in the Ohio unemployment taxes or otherwise, by the state from amounts in the unemployment compensation fund.

(H) The treasurer of state, under the direction of the director and in accordance with the "Cash Management Improvement Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit amounts of interest earned by the state on funds in the benefit account established pursuant to division (C) of this section into the department of job and family services banking fees fund, which is hereby created in the state treasury for the purpose of paying related banking costs incurred by the state for the period for which the interest is calculated, except that if the deposited interest exceeds the banking costs incurred by the state for the period for which the interest is calculated, the treasurer of state shall deposit the excess interest into the unemployment trust fund.

(I) The treasurer of state, under the direction of the director, shall deposit federal funds received by the director for the payment of benefits, job search, relocation, transportation, and subsistence allowances pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American Free Trade Implementation Act of 1993," 107 Stat. 2057, 19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 993, 19 U.S.C.A. 3801, as amended, into the Trade Act benefit account, which is hereby created for the purpose of paying for benefits, training, and support services making payments specified under ~~that act~~ those acts.

(J) The treasurer of state, under the direction of the director, shall deposit federal funds received by the director for training and administration pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, as amended; the "North American Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, as amended; and the "Trade Act of 2002," 116 Stat. 993, 19 U.S.C.A. 3801, as amended, into the ~~North American Free Trade Act~~ training and administration account, which is hereby created for the purpose of ~~paying for benefits, training, and support services~~ making payments specified under that act ~~those acts~~.

Sec. 4141.23. (A) Contributions shall accrue and become payable by each employer for each calendar year or other period as prescribed by this chapter. Such contributions become due and shall be paid by each employer to the director of job and family services for the unemployment compensation fund in accordance with such regulations as the director prescribes, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employer's employ.

In the payment of any contributions, a fractional part of a dollar may be disregarded unless it amounts to fifty cents or more, in which case it may be increased to the next higher dollar.

(B)(1) Any contribution or payment in lieu of contribution, due from an employer on or before December 31, 1992, shall, if not paid when due, bear interest at the rate of ten per cent per annum. In such computation any fraction of a month shall be considered as a full month.

(2) Any contribution, payment in lieu of contribution, interest, forfeiture, or fine due from an employer on or after January 1, 1993, shall, if not paid when due, bear interest at the annual rate of fourteen per cent compounded monthly on the aggregate receivable balance due. In such computation any fraction of a month shall be considered as a full month.

(C) The director may waive the interest assessed under division (B)(2) of this section if the employer meets all of the following conditions within thirty days after the date the director mails or delivers the notice of assessment of interest:

(1) Provides to the director a written request for a waiver of interest clearly demonstrating that the employer's failure to timely pay contributions, payments in lieu of contributions, interest, forfeiture, and fines was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer or the employer's agent shall not be considered beyond the control of the employer or the employer's agent;

(2) Furnishes to the director all quarterly reports required under section

4141.20 of the Revised Code;

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

The director shall deny an employer's request for a waiver of interest after finding that the employer's failure to timely furnish reports or make payments as required under this chapter was due to an attempt to evade payment.

(D) Any contribution, interest, forfeiture, or fine required to be paid under this chapter by any employer shall, if not paid when due, become a lien upon the real and personal property of such employer. Upon failure of such employer to pay the contributions, interest, forfeiture, or fine required to be paid under this chapter, the director shall file notice of such lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that such employer owns real estate or personal property. The director shall notify the employer by mail of the lien. The absence of proof that the notice was sent does not affect the validity of the lien. Such lien shall not be valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time such notice is filed.

If the employer acquires real or personal property after notice of lien is filed, such lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property, unless the notice of lien is refiled after such property was acquired by the employer and before the competing lien attached to such after-acquired property or before the conveyance to such subsequent bona fide purchaser for value.

Such notice shall be recorded in a book kept by the recorder called the "unemployment compensation lien record" and indexed therein in an alphabetical index under the name of such employer. When such unpaid contributions, interest, forfeiture, or fines have been paid, the employer may record with the recorder of the county in which such notice of lien has been filed and recorded, notice of such payment. For recording ~~such~~ the notice of payment the recorder shall charge and receive from the employer a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

(E) Notwithstanding other provisions in this section, the director may reduce, in whole or in part, the amount of interest, forfeiture, or fines required to be paid under this chapter if the director determines that the reduction is in the best interest of the unemployment compensation fund.

(F) Assessment of contributions shall not be made after four years from the date on which such contributions became payable, and no action in court for the collection of contributions without assessment of such contributions shall be begun after the expiration of five years from the date such contributions became payable. In case of a false or fraudulent report or of a willful attempt in any manner to evade contributions, such contributions may be assessed or a proceeding in court for the collection of such contributions may be begun without assessment at any time. When the assessment of contributions has been made within such four-year period provided, action in court to collect such contributions may be begun within, but not later than, six years after such assessment.

(G) In the event of a distribution of an employer's assets, pursuant to an order of any court under the law of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, contributions, interest, forfeiture, or fine then or thereafter due have the same priority as provided by law for the payment of taxes due the state and shall be paid out of the trust fund in the same manner as provided for other claims for unpaid taxes due the state.

(H) If the attorney general finds after investigation that any claim for delinquent contributions, interest, forfeitures, or fines owing to the director is uncollectible, in whole or in part, the attorney general shall recommend to the director the cancellation of such claim or any part thereof. The director may thereupon effect such cancellation.

Sec. 4301.03. The liquor control commission may adopt and promulgate, repeal, rescind, and amend, in the manner required by this section, rules, standards, requirements, and orders necessary to carry out this chapter and Chapter 4303. of the Revised Code, but all rules of the board of liquor control ~~which~~ that were in effect immediately prior to April 17, 1963, shall remain in full force and effect as rules of the liquor control commission until and unless amended or repealed by the liquor control commission. The rules of the commission may include the following:

(A) Rules with reference to applications for and the issuance of permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor, and the sale of alcohol; and rules governing the procedure of the division of liquor control in the suspension, revocation, and cancellation of those permits;

(B) Rules and orders providing in detail for the conduct of any retail business authorized under permits issued pursuant to this chapter and Chapter 4303. of the Revised Code, with a view to ensuring compliance with those chapters and laws relative to them, and the maintenance of public

decency, sobriety, and good order in any place licensed under the permits. No rule or order shall prohibit the sale of lottery tickets issued pursuant to Chapter 3770. of the Revised Code by any retail business authorized under permits issued pursuant to that chapter.

No rule or order shall prohibit pari-mutuel wagering on simulcast horse races at a satellite facility that has been issued a D liquor permit under Chapter 4303. of the Revised Code. No rule or order shall prohibit a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used at other times for the conduct of a ~~charitable~~ bingo game, as described in division (S) of section 2915.01 of the Revised Code. However, such an organization shall not sell or serve beer or intoxicating liquor or permit beer or intoxicating liquor to be consumed or seen in the same location in its premises where a ~~charitable~~ bingo game, as described in division (S)(1) of section 2915.01 of the Revised Code, is being conducted while the game is being conducted. As used in this division, "charitable organization" has the same meaning as in division (H) of section 2915.01 of the Revised Code, ~~and "charitable bingo game" has the same meaning as in division (R) of that section.~~ No rule or order pertaining to visibility into the premises of a permit holder after the legal hours of sale shall be adopted or maintained by the commission.

(C) Standards, not in conflict with those prescribed by any law of this state or the United States, to secure the use of proper ingredients and methods in the manufacture of beer, mixed beverages, and wine to be sold within this state;

(D) Rules determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor, except for spirituous liquor to be kept or sold, governing the form of all seals and labels to be used on those packages and bottles, and requiring the label on every package, bottle, and container to state the ingredients in the contents and, except on beer, the terms of weight, volume, or proof spirits, and whether the same is beer, wine, alcohol, or any intoxicating liquor except for spirituous liquor;

(E) Uniform rules governing all advertising with reference to the sale of beer and intoxicating liquor throughout the state and advertising upon and in the premises licensed for the sale of beer or intoxicating liquor;

(F) Rules restricting and placing conditions upon the transfer of permits;

(G) Rules and orders limiting the number of permits of any class within the state or within any political subdivision of the state; and, for that purpose, adopting reasonable classifications of persons or establishments to

which any authorized class of permits may be issued within any political subdivision;

(H) Rules and orders with reference to sales of beer and intoxicating liquor on Sundays and holidays and with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and rules with reference to the manner of sale;

(I) Rules requiring permit holders buying beer to pay and permit holders selling beer to collect minimum cash deposits for kegs, cases, bottles, or other returnable containers of the beer; requiring the repayment, or credit, of the minimum cash deposit charges upon the return of the empty containers; and requiring the posting of such form of indemnity or such other conditions with respect to the charging, collection, and repayment of minimum cash deposit charges for returnable containers of beer as are necessary to ensure the return of the empty containers or the repayment upon that return of the minimum cash deposits paid;

(J) Rules establishing the method by which alcohol products may be imported for sale by wholesale distributors and the method by which manufacturers and suppliers may sell alcohol products to wholesale distributors.

Every rule, standard, requirement, or order of the commission and every repeal, amendment, or rescission of them shall be posted for public inspection in the principal office of the commission and the principal office of the division of liquor control, and a certified copy of them shall be filed in the office of the secretary of state. An order applying only to persons named in it shall be served on the persons affected by personal delivery of a certified copy, or by mailing a certified copy to each person affected by it or, in the case of a corporation, to any officer or agent of the corporation upon whom a service of summons may be served in a civil action. The posting and filing required by this section constitutes sufficient notice to all persons affected by such rule or order which is not required to be served. General rules of the commission promulgated pursuant to this section shall be published in the manner the commission determines.

Sec. 4301.19. The division of liquor control shall sell spirituous liquor only, whether from a warehouse or from a state liquor store. All sales shall be in sealed containers and for resale as authorized by ~~Chapters 4301, this chapter~~ and Chapter 4303. of the Revised Code or for consumption off the premises only. Except as otherwise provided in this section, sale of containers holding one-half pint or less of spirituous liquor by the division shall be made at retail only, and not for the purpose of resale by any purchaser, by special order placed with a state retail liquor store and subject

to rules established by the superintendent of liquor control. The division ~~shall~~ may sell at wholesale spirituous liquor in fifty milliliter sealed containers to ~~hotels that sell spirituous liquor by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21~~ any holder of a permit issued under Chapter 4303, of the Revised Code, but only for purposes of resale by the hotel in sealed containers by means of a controlled access alcohol and beverage cabinet that authorizes the sale of spirituous liquor for consumption on the premises where sold. A person appointed by the division to act as an agent for the sale of spirituous liquor pursuant to section 4301.17 of the Revised Code may provide and accept gift certificates and may accept credit cards and debit cards for the retail purchase of spirituous liquor. Deliveries shall be made in ~~such~~ the manner as the superintendent determines by rule.

If any ~~persons desire~~ person desires to purchase any variety or brand of spirituous liquor which is not in stock at the state liquor store where the ~~same variety or brand~~ same variety or brand is ordered, the division shall immediately procure the ~~same variety or brand~~ same variety or brand after a reasonable deposit is made by the purchaser in such proportion of the approximate cost of the order as is prescribed by the rules of the superintendent. The purchaser shall be immediately notified upon the arrival of the spirituous liquor at the store at which it was ordered. Unless ~~such~~ the purchaser pays for the ~~same variety or brand~~ same variety or brand and accepts delivery within five days after the giving of ~~such~~ the notice, the division may place ~~such~~ the spirituous liquor in stock for general sale, and the deposit of the purchaser shall be forfeited.

Sec. 4301.30. All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12 of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township. An amount equal to ~~fifty dollars for each fee received for a D-2 permit, which is not placed in operation immediately upon a D-3 permit premises, and twenty five dollars for each fee received for a C-2 permit,~~ forty-five per cent of the fund shall be paid from the ~~undivided liquor permit fund~~ into the general revenue fund.

~~Prior to the fees received for a D-2 permit, which is not in operation immediately upon a D-3 permit premises, and a C-2 permit being paid into the general revenue fund, an amount equal to twenty one~~ Twenty per cent of the undivided liquor permit fund shall be paid into the statewide treatment and prevention fund, which is hereby created in the state treasury. This

amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the ~~department~~ division of liquor control derived under division (B)(4) of section 4301.10 of the Revised Code, to the department of alcohol and drug addiction services. In planning for the allocation of and in allocating these amounts for the purposes of Chapter 3793. of the Revised Code, the department of alcohol and drug addiction services shall comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and any rules adopted ~~thereunder~~ under that act.

~~The moneys remaining in~~ Thirty-five per cent of the undivided liquor permit fund shall be distributed by the superintendent of liquor control at quarterly calendar periods as follows:

(A) To each municipal corporation, the aggregate amount shown by the statements to have been collected from permits ~~therein~~ in the municipal corporation, for the use of the general fund of the municipal corporation;

(B) To each township, the aggregate amount shown by the statements to have been collected from permits in its territory, outside the limits of any municipal corporation located ~~therein~~ in the township, for the use of the general fund of the township, or for fire protection purposes, including buildings and equipment in the township or in an established fire district within the township, to the extent that the funds are derived from liquor permits within the territory comprising such fire district.

For the purpose of the distribution required by this section, E, H, and D permits covering boats or vessels are deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel, or dining car equipment to which the permit relates has the owner's or operator's principal office or place of business within the state.

Such distributions are subject to diminutions for refunds as prescribed in section 4301.41 of the Revised Code. If the liquor control commission is of the opinion that the police or other officers of any municipal corporation or township entitled to share in such a distribution are refusing or culpably neglecting to enforce this chapter and Chapter 4303. of the Revised Code, or the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors, or if the prosecuting officer of a municipal corporation or ~~the a~~ a municipal court ~~thereof~~ fails to comply with the request of the commission authorized by division (A)(4) of section 4301.10 of the Revised Code, the commission by certified mail may notify the chief executive officer of the municipal corporation or the board of township trustees of the township of ~~such~~ the

failure and require the immediate cooperation of the responsible officers of the municipal corporation or township with the division of liquor control in the enforcement of ~~such~~ those chapters and ~~such~~ penal laws. Within thirty days after the notice is served, the commission shall determine whether ~~or not~~ the requirement has been complied with. If the commission determines that the requirement has not been complied with, it may issue an order to the superintendent to withhold the distributive share of the municipal corporation or township until further order of the commission. This action of the commission is reviewable within thirty days thereafter in the court of common pleas of Franklin county.

Sec. 4301.361. (A) If a majority of the electors voting on questions set forth in section 4301.351 of the Revised Code in a precinct vote "yes" on question (B)(1) or (C)(1), or, if both questions (B)(1) and (B)(2), or questions (C)(1) and (C)(2), are submitted, "yes" on both questions or "yes" on question (B)(1) or (C)(1) but "no" on question (B)(2) or (C)(2), sales of intoxicating liquor shall be allowed in the manner and under the conditions specified in question (B)(1) or (C)(1), under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(B) If only question (B)(2) or (C)(2) is submitted to the voters or if questions (B)(2) and (B)(3) or (C)(2) and (C)(3) are submitted and a majority of the electors voting in a precinct vote "yes" on question (B)(2) or (C)(2) as set forth in section 4301.351 of the Revised Code, sales of intoxicating liquor shall be allowed in the manner and under the conditions specified in question (B)(2) or (C)(2), under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code, even if question (B)(1) or (C)(1) was also submitted and a majority of the electors voting in the precinct voted "no."

(C) If question (B)(3) or (C)(3) is submitted and a majority of electors voting on question (B)(3) or (C)(3) as set forth in section 4301.351 of the Revised Code in a precinct vote "yes," sales of wine and mixed beverages shall be allowed in the manner and under the conditions specified in question (B)(3) or (C)(3), under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(D) If questions (B)(1), (B)(2), and (B)(3), or questions (C)(1), (C)(2), and (C)(3), as set forth in section 4301.351 of the Revised Code, are all submitted and a majority of the electors voting in such precinct vote "no" on all three questions, no sales of intoxicating liquor shall be made within the

precinct concerned after two-thirty a.m. on Sunday as specified in the questions submitted, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

(E) If question (C)(1) as set forth in section 4301.351 of the Revised Code is submitted to the voters in a precinct in which question (B)(1) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(1) are still in effect in the precinct; or if question (C)(2) as set forth in that section is submitted to the voters in a precinct in which question (B)(2) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(2) are still in effect in the precinct; or if question (C)(3) as set forth in that section is submitted to the voters in a precinct in which question (B)(3) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(3) are still in effect in the precinct; and if a majority of the electors voting on question (C)(1), (C)(2), or (C)(3) vote "no," then sales shall continue to be allowed in the precinct in the manner and under the conditions specified in the previously approved question (B)(1), (B)(2), or (B)(3), as applicable.

(F) If question (B)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "yes," sales of intoxicating liquor shall be allowed at outdoor performing arts centers in the manner and under the conditions specified in question (B)(4) under a D-6 permit, within the precinct concerned, during the period the election is in effect as defined in section 4301.37 of the Revised Code. If question (B)(4) as set forth in section 4301.351 of the Revised Code is submitted and a majority of the electors voting in the precinct vote "no," no sales of intoxicating liquor shall be allowed at outdoor performing arts centers in the precinct concerned under a D-6 permit, after 2:30 a.m. on Sunday, during the period the election is in effect as defined in section 4301.37 of the Revised Code.

Sec. 4301.364. (A) If a majority of the electors in a precinct vote "yes" on question (B)(1) or (C)(1) as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the precinct on other days of the week, shall be permitted in the portion of the precinct affected by the results of the election in the manner and under the conditions specified in the question, subject only to ~~Chapters 4301. this chapter~~ and Chapter 4303. of the Revised Code.

(B) If a majority of the electors in a precinct vote "yes" on question (B)(2) or (C)(2) as set forth in section 4301.354 of the Revised Code, the sale of intoxicating liquor, of the same types as may be legally sold in the

precinct on other days of the week, shall be permitted in the portion of the precinct affected by the results of the election in the manner and under the conditions specified in the question, subject only to ~~Chapters 4301. this chapter and Chapter 4303.~~ of the Revised Code.

(C) If a majority of the electors in a precinct vote "yes" on question (B)(3) or (C)(3) as set forth in section 4301.354 of the Revised Code, the sale of wine and mixed beverages shall be permitted in the portion of the precinct affected by the results of the election in the manner and under the conditions specified in the question, subject only to ~~Chapters 4301. this chapter and Chapter 4303.~~ of the Revised Code.

(D) If a majority of the electors in a precinct vote "no" on question (B)(1) or (C)(1) as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor shall be permitted in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(E) If a majority of the electors in a precinct vote "no" on question (B)(2) or (C)(2) as set forth in section 4301.354 of the Revised Code, no sale of intoxicating liquor shall be permitted in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(F) If a majority of the electors in a precinct vote "no" on question (B)(3) or (C)(3) as set forth in section 4301.354 of the Revised Code, no sale of wine or mixed beverages shall be permitted in the manner and under the conditions specified in the question in the portion of the precinct affected by the results of the election.

(G) If question (C)(1) as set forth in section 4301.354 of the Revised Code is submitted to the voters in a precinct in which question (B)(1) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(1) are still in effect in the precinct; or if question (C)(2) as set forth in that section is submitted to the voters in a precinct in which question (B)(2) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(2) are still in effect in the precinct; or if question (C)(3) as set forth in that section is submitted to the voters in a precinct in which question (B)(3) as set forth in that section previously was submitted and approved, and the results of the election on question (B)(3) are still in effect in the precinct; and if a majority of the electors voting on question (C)(1), (C)(2), or (C)(3) vote "no," then sales shall continue to be allowed in the precinct in the manner and under the conditions specified in the previously approved question (B)(1), (B)(2), or (B)(3), as applicable.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2004~~ 2003, through June 30, ~~2003~~ 2005, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state,

there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4303.02. Permit A-1 may be issued to a manufacturer to manufacture beer and sell beer products in bottles or containers for home use and to retail and wholesale permit holders under rules promulgated by the division of liquor control. The fee for this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six dollars for each plant during the year covered by the permit.

Sec. 4303.021. Permit A-1-A may be issued to the holder of an A-1 or A-2 permit to sell beer and any intoxicating liquor at retail, only by the individual drink in glass or from a container, provided such A-1-A permit premises are situated on the same parcel or tract of land as the related A-1 or A-2 manufacturing permit premises or are separated therefrom only by public streets or highways or by other lands owned by the holder of the A-1 or A-2 permit and used by the holder in connection with or in promotion of the holder's A-1 or A-2 permit business. The fee for this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six dollars. The holder of an A-1-A permit may sell beer and any intoxicating liquor during the same hours as the holders of D-5 permits under this chapter or Chapter 4301. of the Revised Code or the rules of the liquor control commission and shall obtain a license as a retail food establishment or a food service operation pursuant to Chapter 3717. of the Revised Code and operate as a restaurant for purposes of this chapter.

Except as otherwise provided in this section, no new A-1-A permit shall be issued to the holder of an A-1 or A-2 permit unless the sale of beer and intoxicating liquor under class D permits is permitted in the precinct in which the A-1 or A-2 permit is located and, in the case of an A-2 permit, unless the holder of the A-2 permit manufactures or has a storage capacity of at least twenty-five thousand gallons of wine per year. The immediately preceding sentence does not prohibit the issuance of an A-1-A permit to an applicant for such a permit who is the holder of an A-1 permit and whose application was filed with the division of liquor control before June 1, 1994. The liquor control commission shall not restrict the number of A-1-A permits which may be located within a precinct.

Sec. 4303.03. Permit A-2 may be issued to a manufacturer to manufacture wine from grapes or other fruits grown in the state, if obtainable, otherwise to import such fruits after submitting an affidavit of

nonavailability to the division of liquor control; to import and purchase wine in bond for blending purposes, the total amount of wine so imported during the year covered by the permit not to exceed forty per cent of all the wine manufactured and imported; to manufacture, purchase, and import brandy for fortifying purposes; and to sell such products either in glass or container for consumption on the premises where manufactured, for home use, and to retail and wholesale permit holders under such rules as are adopted by the division.

The fee for this permit is ~~sixty-three~~ one hundred twenty-six dollars for each plant producing one hundred wine barrels, of fifty gallons each, or less annually. ~~Such~~ This initial fee shall be increased at the rate of ten cents per such barrel for all wine manufactured in excess of one hundred barrels during the year covered by the permit.

Sec. 4303.04. Permit A-3 may be issued to a manufacturer to manufacture alcohol and spirituous liquor and sell such products to the division of liquor control or to the holders of a like permit or to the holders of A-4 permits for blending or manufacturing purposes; to import alcohol into this state upon such terms as are prescribed by the division; to sell alcohol to manufacturers, hospitals, infirmaries, medical or educational institutions using it for medicinal, mechanical, chemical, or scientific purposes, and to holders of I permits; to import into this state spirituous liquor and wine for blending or other manufacturing purposes; and to export spirituous liquor from this state for sale outside the state.

The fee for this permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six dollars for each plant; but, if a plant's production capacity is less than five hundred wine barrels of fifty gallons each, annually, the fee is two dollars per barrel.

Sec. 4303.05. Permit A-4 may be issued to a manufacturer to manufacture prepared highballs, cocktails, cordials, and other mixed drinks containing not less than four per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, and to sell such products to wholesale and retail permit holders in sealed containers only under such rules as are adopted by the division of liquor control. The holder of such permit may import into the state spirituous liquor and wine only for blending or other manufacturing purposes under such rules as are prescribed by the division.

The holder of such permit may also purchase spirituous liquor for manufacturing and blending purposes from the holder of an A-3 permit issued by the division. The formulas and the beverages manufactured by the holder of an A-4 permit ~~must~~ shall be submitted to the division for its

analysis and approval before ~~such~~ the beverages may be sold to or distributed in this state by holders of retail and wholesale permits. All labels and advertising matter used by the holders of ~~such~~ A-4 permits ~~must~~ shall be approved by the division before they may be used in this state. The fee for ~~this~~ an A-4 permit is three thousand ~~one~~ nine hundred ~~twenty-five~~ six dollars for each plant.

Sec. 4303.06. Permit B-1 may be issued to a wholesale distributor of beer to purchase from the holders of A-1 permits and to import and distribute or sell beer for home use and to retail permit holders under rules adopted by the division of liquor control. The fee for this permit is ~~two~~ three thousand ~~five~~ one hundred twenty-five dollars for each distributing plant or warehouse during the year covered by the permit.

Sec. 4303.07. Permit B-2 may be issued to a wholesale distributor of wine to purchase from holders of A-2 and B-5 permits and distribute or sell such product, in the original container in which it was placed by the B-5 permit holder or manufacturer at the place where manufactured, to A-1-A, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and E permit holders, and for home use. The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars for each distributing plant or warehouse. The initial fee shall be increased ten cents per wine barrel of fifty gallons for all wine distributed and sold in this state in excess of twelve hundred fifty such barrels during the year covered by the permit.

Sec. 4303.08. Permit B-3 may be issued to a wholesale distributor of wine to bottle, distribute, or sell sacramental wine for religious rites upon an application signed, dated, and approved as required by section 4301.23 of the Revised Code. The fee for this permit is ~~sixty-two~~ one hundred twenty-four dollars.

Sec. 4303.09. Permit B-4 may be issued to a wholesale distributor to purchase from the holders of A-4 permits and to import, distribute, and sell prepared and bottled highballs, cocktails, cordials, and other mixed beverages containing not less than four per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume to retail permit holders, and for home use, under ~~such~~ rules as are adopted by the division of liquor control. The formula and samples of all such beverages to be handled by the permit holder ~~must~~ shall be submitted to the division for analysis and the approval of the division before such beverages may be sold and distributed in this state. All labels and advertising matter used by the holders of ~~such permits must~~ this permit shall be approved by the division before they may be used in this state. The fee for this permit shall be computed on the basis of annual sales, and the initial fee is ~~two~~ five hundred ~~fifty~~ dollars

for each distributing plant or warehouse. ~~Such~~ The initial fee shall be increased at the rate of ten cents per wine barrel of fifty gallons for all such beverages distributed and sold in this state in excess of one thousand such barrels during the year covered by the permit.

Sec. 4303.10. Permit B-5 may be issued to a wholesale distributor of wine to purchase wine from the holders of A-2 permits, to purchase and import wine in bond or otherwise, in bulk or in containers of any size, and to bottle wine for distribution and sale to holders of A-1-A, B-2, B-3, B-5, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, and E permits and for home use in sealed containers. No wine shall be bottled by a B-5 permit holder in containers supplied by any person who intends the wine for home use. The fee for this permit is one thousand ~~two~~ five hundred fifty-sixty-three dollars.

Sec. 4303.11. Permit C-1 may be issued to the owner or operator of a retail store to sell beer in containers and not for consumption on the premises where sold in original containers having a capacity of not more than five and one-sixth gallons. The fee for this permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two dollars for each location.

Sec. 4303.12. Permit C-2 may be issued to the owner or operator of a retail store to sell wine in sealed containers only and not for consumption on the premises where sold in original containers. The holder of ~~such~~ this permit may also sell and distribute in original packages and not for consumption on the premises where sold or for resale, prepared and bottled highballs, cocktails, cordials, and other mixed beverages manufactured and distributed by holders of A-4 and B-4 permits, and containing not less than four per cent of alcohol by volume, and not more than twenty-one per cent of alcohol by volume. The fee for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars for each location.

Sec. 4303.121. Effective October 1, 1982, permit C-2x shall be issued to the holder of a C-2 permit who does not also hold a C-1 permit, to sell beer only not for consumption on the premises where sold, in original containers having a capacity of not more than five and one-sixth gallons. Applicants for a C-2 permit as of October 1, 1982 shall be issued a C-2x permit subject to the restrictions for the issuance of the C-2 permit. The fee for a C-2x permit is ~~one~~ two hundred ~~twenty-six~~ fifty-two dollars.

Sec. 4303.13. Permit D-1 may be issued to the owner or operator of a hotel ~~or~~ of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, or of a club, amusement park, drugstore, lunch stand, boat, or vessel, ~~and shall be issued to a person described in division~~

~~(B) of this section,~~ to sell beer at retail either in glass or container, for consumption on the premises where sold; and, ~~except as otherwise provided in division (B) of this section,~~ to sell beer at retail in other receptacles or in original containers having a capacity of not more than five and one-sixth gallons not for consumption on the premises where sold. The fee for this permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars for each location, boat, or vessel.

Sec. 4303.14. Permit D-2 may be issued to the owner or operator of a hotel ~~or~~ of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, or of a club, boat, or vessel, to sell wine and prepared and bottled cocktails, cordials, and other mixed beverages manufactured and distributed by holders of A-4 and B-4 permits at retail, either in glass or container, for consumption on the premises where sold. The holder of ~~such~~ this permit may also sell wine and prepared and bottled cocktails, cordials, and other mixed beverages in original packages and not for consumption on the premises where sold or for resale. The fee for this permit is ~~two~~ five hundred ~~eighty-two~~ sixty-four dollars for each location, boat, or vessel.

Sec. 4303.141. Effective October 1, 1982, permit D-2x shall be issued to the holder of a D-2 permit who does not also hold a D-1 permit, to sell beer at retail either in glass or container for consumption on the premises where sold and to sell beer at retail in other receptacles or original containers having a capacity of not more than five and one-sixth gallons not for consumption on the premises where sold. Applicants for a D-2 permit as of October 1, 1982, shall be issued a D-2x permit subject to the quota restrictions for the issuance of the D-2 permit. The fee for a D-2x permit is ~~one~~ three hundred ~~eighty-eight~~ seventy-six dollars.

Sec. 4303.15. Permit D-3 may be issued to the owner or operator of a hotel ~~or~~ of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, or of a club, boat, or vessel, to sell spirituous liquor at retail, only by the individual drink in glass or from the container, for consumption on the premises where sold. No sales of intoxicating liquor shall be made by a holder of a D-3 permit after one a.m. The fee for this permit is ~~six~~ seven hundred fifty dollars for each location, boat, or vessel.

Sec. 4303.151. On October 1, 1982, permit D-3x shall be issued to the holder of a D-3 permit, to sell wine by the individual drink in glass or from the container, for consumption on the premises where sold. Applications for a D-3 permit on October 1, 1982, may be issued a D-3x permit subject to the

quota restrictions for the issuance of a D-3 permit. The fee for a D-3x permit is ~~one~~ three hundred ~~fifty~~ dollars.

Sec. 4303.16. Permit D-3a may be issued to the holder of a D-3 permit whenever ~~his~~ the holder's place of business is operated after one a.m. and spirituous liquor is sold or consumed after ~~such~~ that hour. The holder of such permit may sell spirituous liquor during the same hours as the holders of D-5 permits under this chapter and Chapter 4301. of the Revised Code or the rules of the liquor control commission. The fee for a D-3a permit is ~~seven~~ nine hundred ~~fifty~~ thirty-eight dollars in addition to the fee required for a D-3 permit.

If the holder of a D-3a permit is also the holder of a D-1 permit, ~~he~~ the holder may sell beer after one a.m. and during the same hours as the holder of a D-5 permit. If the holder of a D-3a permit is also the holder of a D-2 permit, ~~he~~ the holder may sell intoxicating liquor after one a.m. and during the same hours as the holder of a D-5 permit. The holder of a D-3a permit may furnish music and entertainment to ~~his~~ the holder's patrons, subject to the same rules as govern D-5 permit holders.

Sec. 4303.17. Permit D-4 may be issued to a club ~~which~~ that has been in existence for three years or more prior to the issuance of ~~such~~ the permit to sell beer and any intoxicating liquor to its members only, in glass or container, for consumption on the premises where sold. The fee for this permit is ~~three~~ four hundred ~~seventy-five~~ sixty-nine dollars. No such permit shall be granted or retained until all elected officers of such organization controlling such club have filed with the division of liquor control a statement certifying that such club is operated in the interest of the membership of a reputable organization, which is maintained by a dues paying membership, setting forth the amount of initiation fee and yearly dues. All such matters shall be contained in a statement signed under oath and accompanied by a surety bond in the sum of one thousand dollars. Such bond shall be declared forfeited in the full amount of the penal sum of the bond for any false statement contained in such certificate and the surety shall pay the amount of the bond to the division. The roster of membership of a D-4 permit holder shall be submitted under oath on the request of the superintendent of liquor control. Any information acquired by the superintendent or the division with respect to such membership shall not be open to public inspection or examination and may be divulged by the superintendent and the division only in hearings before the liquor control commission or in a court action in which the division or the superintendent is named a party.

The requirement that a club shall have been in existence for three years

in order to qualify for a D-4 permit does not apply to units of organizations chartered by congress or to a subsidiary unit of a national fraternal organization if the parent organization has been in existence for three years or more at the time application for a permit is made by such unit.

No rule or order of the division or commission shall prohibit a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used at other times for the conduct of a ~~charitable~~ bingo game as described in division (S) of section 2915.01 of the Revised Code. However, such an organization shall not sell or serve beer or intoxicating liquor or permit beer or intoxicating liquor to be consumed or seen in the same location in its premises where a ~~charitable~~ bingo game, as described in division (S)(1) of section 2915.01 of the Revised Code, is being conducted while the game is being conducted. As used in this section, "charitable organization" has the same meaning as in division (H) of section 2915.01 and ~~"charitable bingo game" has the same meaning as in division (R) of section 2915.01 of the Revised Code.~~

Sec. 4303.171. Permit D-4a may be issued to an airline company ~~which~~ that leases and operates a premises exclusively for the benefit of the members and their guests of a private club sponsored by the airline company, at a publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to sell beer and any intoxicating liquor to members of the private club and their guests, only by the individual drink in glass and from the container, for consumption on the premises where sold. In addition to the privileges authorized in this section, the holder of a D-4a permit may exercise the same privileges as a holder of a D-4 permit. The holder of a D-4a permit shall make no sales of beer or intoxicating liquor after two-thirty a.m.

A D-4a permit shall not be transferred to another location. No quota restriction shall be placed upon the number of such permits which may be issued.

The fee for this permit is ~~six~~ seven hundred fifty dollars.

Sec. 4303.18. Permit D-5 may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant or night club for purposes of this chapter, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may

be sold by holders of D-1 and D-2 permits. A person who is the holder of both a D-3 and D-3a permit need not obtain a D-5 permit. The fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

Sec. 4303.181. (A) Permit D-5a may be issued either to the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and that qualifies under the other requirements of this section, or to the owner or operator of a restaurant specified under this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to registered guests in their rooms, which may be sold by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code; and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. The premises of the hotel or motel shall include a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is affiliated with the hotel or motel and within or contiguous to the hotel or motel, and that serves food within the hotel or motel, but the principal business of the owner or operator of the hotel or motel shall be the accommodation of transient guests. In addition to the privileges authorized in this division, the holder of a D-5a permit may exercise the same privileges as the holder of a D-5 permit.

The owner or operator of a hotel, motel, or restaurant who qualified for and held a D-5a permit on August 4, 1976, may, if the owner or operator held another permit before holding a D-5a permit, either retain a D-5a permit or apply for the permit formerly held, and the division of liquor control shall issue the permit for which the owner or operator applies and formerly held, notwithstanding any quota.

A D-5a permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

The fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

(B) Permit D-5b may be issued to the owner, operator, tenant, lessee, or occupant of an enclosed shopping center to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold; and to sell the same products in the same manner and amount not for consumption on the premises as may

be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5b permit may exercise the same privileges as a holder of a D-5 permit.

A D-5b permit shall not be transferred to another location.

One D-5b permit may be issued at an enclosed shopping center containing at least two hundred twenty thousand, but less than four hundred thousand, square feet of floor area.

Two D-5b permits may be issued at an enclosed shopping center containing at least four hundred thousand square feet of floor area. No more than one D-5b permit may be issued at an enclosed shopping center for each additional two hundred thousand square feet of floor area or fraction of that floor area, up to a maximum of five D-5b permits for each enclosed shopping center. The number of D-5b permits that may be issued at an enclosed shopping center shall be determined by subtracting the number of D-3 and D-5 permits issued in the enclosed shopping center from the number of D-5b permits that otherwise may be issued at the enclosed shopping center under the formulas provided in this division. Except as provided in this section, no quota shall be placed on the number of D-5b permits that may be issued. Notwithstanding any quota provided in this section, the holder of any D-5b permit first issued in accordance with this section is entitled to its renewal in accordance with section 4303.271 of the Revised Code.

The holder of a D-5b permit issued before April 4, 1984, whose tenancy is terminated for a cause other than nonpayment of rent, may return the D-5b permit to the division of liquor control, and the division shall cancel that permit. Upon cancellation of that permit and upon the permit holder's payment of taxes, contributions, premiums, assessments, and other debts owing or accrued upon the date of cancellation to this state and its political subdivisions and a filing with the division of a certification of that payment, the division shall issue to that person either a D-5 permit, or a D-1, a D-2, and a D-3 permit, as that person requests. The division shall issue the D-5 permit, or the D-1, D-2, and D-3 permits, even if the number of D-1, D-2, D-3, or D-5 permits currently issued in the municipal corporation or in the unincorporated area of the township where that person's proposed premises is located equals or exceeds the maximum number of such permits that can be issued in that municipal corporation or in the unincorporated area of that township under the population quota restrictions contained in section 4303.29 of the Revised Code. Any D-1, D-2, D-3, or D-5 permit so issued shall not be transferred to another location. If a D-5b permit is canceled under the provisions of this paragraph, the number of D-5b permits that may

be issued at the enclosed shopping center for which the D-5b permit was issued, under the formula provided in this division, shall be reduced by one if the enclosed shopping center was entitled to more than one D-5b permit under the formula.

The fee for this permit is ~~one~~ two thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

(C) Permit D-5c may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that qualifies under the other requirements of this section to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and to sell the same products in the same manner and amounts not for consumption on the premises as may be sold by holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5c permit may exercise the same privileges as the holder of a D-5 permit.

To qualify for a D-5c permit, the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter, shall have operated the restaurant at the proposed premises for not less than twenty-four consecutive months immediately preceding the filing of the application for the permit, have applied for a D-5 permit no later than December 31, 1988, and appear on the division's quota waiting list for not less than six months immediately preceding the filing of the application for the permit. In addition to these requirements, the proposed D-5c permit premises shall be located within a municipal corporation and further within an election precinct that, at the time of the application, has no more than twenty-five per cent of its total land area zoned for residential use.

A D-5c permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued.

Any person who has held a D-5c permit for at least two years may apply for a D-5 permit, and the division of liquor control shall issue the D-5 permit notwithstanding the quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission.

The fee for this permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars.

(D) Permit D-5d may be issued to the owner or operator of a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that is located at an airport operated by a board of county

commissioners pursuant to section 307.20 of the Revised Code, at an airport operated by a port authority pursuant to Chapter 4582. of the Revised Code, or at an airport operated by a regional airport authority pursuant to Chapter 308. of the Revised Code. The holder of a D-5d permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. In addition to the privileges authorized in this division, the holder of a D-5d permit may exercise the same privileges as the holder of a D-5 permit.

A D-5d permit shall not be transferred to another location. No quota restrictions shall be placed on the number of such permits that may be issued.

The fee for this permit is ~~one two thousand eight~~ three hundred seventy-five forty-four dollars.

(E) Permit D-5e may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, or that is a charitable organization under any chapter of the Revised Code, and that owns or operates a riverboat that meets all of the following:

- (1) Is permanently docked at one location;
- (2) Is designated as an historical riverboat by the Ohio historical society;
- (3) Contains not less than fifteen hundred square feet of floor area;
- (4) Has a seating capacity of fifty or more persons.

The holder of a D-5e permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5e permit shall not be transferred to another location. No quota restriction shall be placed on the number of such permits that may be issued. The population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission shall not apply to this division, and the division shall issue a D-5e permit to any applicant who meets the requirements of this division. However, the division shall not issue a D-5e permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

The fee for this permit is ~~nine~~ one thousand two hundred seventy-five nineteen dollars.

(F) Permit D-5f may be issued to the owner or operator of a retail food

establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following:

(1) It contains not less than twenty-five hundred square feet of floor area.

(2) It is located on or in, or immediately adjacent to, the shoreline of, a navigable river.

(3) It provides docking space for twenty-five boats.

(4) It provides entertainment and recreation, provided that not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration.

In addition, each application for a D-5f permit shall be accompanied by a certification from the local legislative authority that the issuance of the D-5f permit is not inconsistent with that political subdivision's comprehensive development plan or other economic development goal as officially established by the local legislative authority.

The holder of a D-5f permit may sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold.

A D-5f permit shall not be transferred to another location.

The division of liquor control shall not issue a D-5f permit if the permit premises or proposed permit premises are located within an area in which the sale of spirituous liquor by the glass is prohibited.

A fee for this permit is ~~one two~~ thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

As used in this division, "navigable river" means a river that is also a "navigable water" as defined in the "Federal Power Act," 94 Stat. 770 (1980), 16 U.S.C. 796.

(G) Permit D-5g may be issued to a nonprofit corporation that is either the owner or the operator of a national professional sports museum. The holder of a D-5g permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5g permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5g permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5g permits that may be issued. The fee for this permit is one thousand ~~five~~ eight hundred ~~seventy-five~~ dollars.

(H) Permit D-5h may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of

1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that owns or operates a fine arts museum and has no less than five thousand bona fide members possessing full membership privileges. The holder of a D-5h permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. The holder of a D-5h permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m. A D-5h permit shall not be transferred to another location. No quota restrictions shall be placed on the number of D-5h permits that may be issued. The fee for this permit is one thousand ~~five~~ eight hundred seventy-five dollars.

(I) Permit D-5i may be issued to the owner or operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and that meets all of the following requirements:

- (1) It is located in a municipal corporation or a township with a population of ~~fifty~~ seventy-five thousand or less.
- (2) It has inside seating capacity for at least one hundred forty persons.
- (3) It has at least four thousand square feet of floor area.
- (4) It offers full-course meals, appetizers, and sandwiches.
- (5) Its receipts from beer and liquor sales do not exceed twenty-five per cent of its total gross receipts.
- (6) The value of its real and personal property exceeds seven hundred twenty-five thousand dollars.

The holder of a D-5i permit shall cause an independent audit to be performed at the end of one full year of operation following issuance of the permit in order to verify the requirements of division (I)(5) of this section. The results of the independent audit shall be transmitted to the division. Upon determining that the receipts of the holder from beer and liquor sales exceeded twenty-five per cent of its total gross receipts, the division shall suspend the permit of the permit holder under section 4301.25 of the Revised Code and may allow the permit holder to elect a forfeiture under section 4301.252 of the Revised Code.

The holder of a D-5i permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold, and may sell the same products in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5i permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after two-thirty a.m. In addition to the privileges

authorized in this division, the holder of a D-5i permit may exercise the same privileges as the holder of a D-5 permit.

A D-5i permit shall not be transferred to another location. The division of liquor control shall not renew a D-5i permit unless the food service operation for which it is issued continues to meet the requirements described in divisions (I)(1) to (6) of this section. No quota restrictions shall be placed on the number of D-5i permits that may be issued. The fee for this permit is ~~one two~~ eight three thousand ~~seventy-five~~ forty-four dollars.

(J)(1) Permit D-5j may be issued to the owner or the operator of a retail food establishment or a food service operation licensed under Chapter 3717. of the Revised Code to sell beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and to sell beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 and D-2 permits. The holder of a D-5j permit may exercise the same privileges, and shall observe the same hours of operation, as the holder of a D-5 permit.

(2) The D-5j permit shall be issued only within a community entertainment district that is designated under section 4301.80 of the Revised Code and that meets one of the following qualifications:

(a) It is located in a municipal corporation with a population of at least one hundred thousand.

(b) It is located in a municipal corporation with a population of at least twenty thousand, and either of the following applies:

(i) It contains an amusement park the rides of which have been issued a permit by the department of agriculture under Chapter 1711. of the Revised Code.

(ii) Not less than fifty million dollars will be invested in development and construction in the community entertainment district's area located in the municipal corporation.

(c) It is located in a township with a population of at least forty thousand.

(3) The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and shall not be transferred outside the geographic boundaries of that district.

(4) Not more than one D-5j permit shall be issued within each community entertainment district for each five acres of land located within the district. Not more than fifteen D-5j permits may be issued within a single community entertainment district. Except as otherwise provided in

division (J)(4) of this section, no quota restrictions shall be placed upon the number of D-5j permits that may be issued.

(5) The fee for a D-5j permit is ~~one~~ two thousand ~~eight~~ three hundred ~~seventy-five~~ forty-four dollars.

(K)(1) Permit D-5k may be issued to any nonprofit organization that is exempt from federal income taxation under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(3), as amended, that is the owner or operator of a botanical garden recognized by the American association of botanical gardens and arboreta, and that has not less than twenty-five hundred bona fide members.

(2) The holder of a D-5k permit may sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, on the premises where sold.

(3) The holder of a D-5k permit shall sell no beer or intoxicating liquor for consumption on the premises where sold after one a.m.

(4) A D-5k permit shall not be transferred to another location.

(5) No quota restrictions shall be placed on the number of D-5k permits that may be issued.

(6) The fee for the D-5k permit is one thousand ~~five~~ eight hundred ~~seventy-five~~ dollars.

Sec. 4303.182. (A) Except as otherwise provided in divisions (B) to (G) of this section, permit D-6 shall be issued to the holder of an A-1-A, A-2, C-2, D-2, D-3, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, ~~D-5g~~, D-5h, D-5i, D-5j, D-5k, or D-7 permit to allow sale under that permit between the hours of ten a.m. and midnight, or between the hours of one p.m. and midnight, on Sunday, as applicable, if that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code and under the restrictions of that authorization.

(B) Permit D-6 shall be issued to the holder of any permit, including a D-4a and D-5d permit, authorizing the sale of intoxicating liquor issued for a premises located at any publicly owned airport, as defined in section 4563.01 of the Revised Code, at which commercial airline companies operate regularly scheduled flights on which space is available to the public, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(C) Permit D-6 shall be issued to the holder of a D-5a permit, and to the holder of a D-3 or D-3a permit who is the owner or operator of a hotel or motel that is required to be licensed under section 3731.03 of the Revised Code, that contains at least fifty rooms for registered transient guests, and

that has on its premises a retail food establishment or a food service operation licensed pursuant to Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and is affiliated with the hotel or motel and within or contiguous to the hotel or motel and serving food within the hotel or motel, to allow sale under such permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(D) The holder of a D-6 permit that is issued to a sports facility may make sales under the permit between the hours of eleven a.m. and midnight on any Sunday on which a professional baseball, basketball, football, hockey, or soccer game is being played at the sports facility. As used in this division, "sports facility" means a stadium or arena that has a seating capacity of at least four thousand and that is owned or leased by a professional baseball, basketball, football, hockey, or soccer franchise or any combination of those franchises.

(E) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a premises located in or at the Ohio historical society area or the state fairgrounds, as defined in division (B) of section 4301.40 of the Revised Code, to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(F) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of intoxicating liquor and that is issued to an outdoor performing arts center to allow sale under that permit between the hours of one p.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361 of the Revised Code. A D-6 permit issued under this division is subject to the results of an election, held after the D-6 permit is issued, on question (B)(4) as set forth in section 4301.351 of the Revised Code. Following the end of the period during which an election may be held on question (B)(4) as set forth in that section, sales of intoxicating liquor may continue at an outdoor performing arts center under a D-6 permit issued under this division, unless an election on that question is held during the permitted period and a majority of the voters voting in the precinct on that question vote "no."

As used in this division, "outdoor performing arts center" means an outdoor performing arts center that is located on not less than eight hundred acres of land and that is open for performances from the first day of April to the last day of October of each year.

(G) Permit D-6 shall be issued to the holder of any permit that authorizes the sale of beer or intoxicating liquor and that is issued to a golf course owned by the state, a conservancy district, a park district created under Chapter 1545. of the Revised Code, or another political subdivision to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit to allow sale under that permit between the hours of ten a.m. and midnight on Sunday, whether or not that sale has been authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(I) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(H)~~(J) The fee for the D-6 permit is ~~two~~ five hundred ~~forty~~ dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is ~~two~~ four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4303.183. Permit D-7 may be issued to the holder of any D-2 permit issued by the division of liquor control, or if there is an insufficient number of D-2 permit holders to fill the resort quota, to the operator of a retail food establishment or a food service operation required to be licensed under Chapter 3717. of the Revised Code that operates as a restaurant for purposes of this chapter and which qualifies under the other requirements of this section, to sell beer and any intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold. Not less than fifty per cent of the business on the permit premises shall be preparing and serving meals for a consideration in order to qualify for and continue to hold such D-7 permit. The permit premises shall be located in a resort area.

"Resort area" means a municipal corporation, township, county, or any combination thereof, which provides entertainment, recreation, and transient housing facilities specifically intended to provide leisure time activities for persons other than those whose permanent residence is within the "resort

area" and who increase the population of the "resort area" on a seasonal basis, and which experiences seasonal peaks of employment and governmental services as a direct result of population increase generated by the transient, recreating public. A resort season shall begin on the first day of May and end on the last day of October. Notwithstanding section 4303.27 of the Revised Code, such permits may be issued for resort seasons without regard to the calendar year or permit year. Quota restrictions on the number of such permits shall take into consideration the transient population during the resort season, the custom and habits of visitors and tourists, and the promotion of the resort and tourist industry. The fee for this permit is ~~three~~ four hundred ~~seventy-five~~ sixty-nine dollars per month.

Any suspension of a D-7 permit shall be satisfied during the resort season in which such suspension becomes final. If such suspension becomes final during the off-season, or if the period of the suspension extends beyond the last day of October, the suspension or remainder thereof shall be satisfied during the next resort season.

The ownership of a D-7 permit may be transferred from one permit holder to another. The holder of a D-7 permit may file an application to transfer such permit to a new location within the same resort area, provided that such permit holder shall be the owner or operator of a retail food establishment or a food service operation, required to be licensed under Chapter 3717. of the Revised Code, that operates as a restaurant for purposes of this chapter, at such new location.

Sec. 4303.184. (A) Subject to division (B) of this section, a D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit issued to a retail store that has either of the following characteristics:

(1) The store has at least five thousand five hundred square feet of floor area, and it generates more than sixty per cent of its sales in general merchandise items and food for consumption off the premises where sold.

(2) Wine constitutes at least sixty per cent of the value of the store's inventory.

(B) A D-8 permit may be issued to the holder of a C-1, C-2, or C-2x permit only if the premises of the permit holder are located in a precinct, or at a particular location in a precinct, in which the sale of beer, wine, or mixed beverages is permitted for consumption off the premises where sold. Sales under a D-8 permit are not affected by whether sales for consumption on the premises where sold are permitted in the precinct or at the particular location where the D-8 premises are located.

(C) The holder of a D-8 permit may sell tasting samples of beer, wine, and mixed beverages, but not spirituous liquor, at retail, for consumption on

the premises where sold in an amount not to exceed two ounces or another amount designated by rule of the liquor control commission. A tasting sample shall not be sold for general consumption. No D-8 permit holder shall allow any authorized purchaser to consume more than four tasting samples of beer, wine, or mixed beverages, or any combination of beer, wine, or mixed beverages, per day.

(D) The privileges authorized under a D-8 permit may only be exercised in conjunction with and during the hours of operation authorized by a C-1, C-2, C-2x, or D-6 permit.

(E) A D-8 permit shall not be transferred to another location.

(F) The fee for the D-8 permit is ~~two~~ five hundred ~~fifty~~ dollars.

(G) The holder of a D-8 permit shall cause an independent audit to be performed at the end of the first full year of operation following issuance of the permit, and at the end of each second year thereafter, in order to verify that the permit holder satisfies the applicable requirement of division (A)(1) or (2) of this section. The permit holder shall transmit the results of the independent audit to the division of liquor control. If the results of the audit indicate noncompliance with division (A) of this section, the division shall not renew the D-8 permit of the permit holder.

Sec. 4303.19. Permit E may be issued to the owner or operator of any railroad, a sleeping car company operating dining cars, buffet cars, club cars, lounge cars, or similar equipment, or an airline providing charter or regularly scheduled aircraft transportation service with dining, buffet, club, lounge, or similar facilities, to sell beer or any intoxicating liquor in any such car or aircraft to bona fide passengers at retail in glass and from the container for consumption in such car or aircraft, including sale on Sunday between the hours of one p.m. and midnight. The fee for this permit is ~~two~~ five hundred ~~fifty~~ dollars.

Sec. 4303.20. Permit F may be issued to an association of ten or more persons, a labor union, or a charitable organization, or to an employer of ten or more persons sponsoring a function for ~~his~~ the employer's employees, to purchase from the holders of A-1 and B-1 permits and to sell beer for a period lasting not to exceed five days. No more than two such permits may be issued to the same applicant in any thirty-day period.

The special function for which ~~such~~ the permit is issued shall include a social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purpose but shall not include any function the proceeds of which are for the profit or gain of any individual. The fee for this permit is ~~twenty~~ forty dollars.

Sec. 4303.201. (A) As used in this section:

(1) "Convention facility" means any structure owned or leased by a municipal corporation or county which was expressly designed and constructed and is currently used for the purpose of presenting conventions, public meetings, and exhibitions.

(2) "Nonprofit organization" means any unincorporated association or nonprofit corporation that is not formed for the pecuniary gain or profit of, and whose net earnings or any part thereof is not distributable to, its members, trustees, officers, or other private persons; provided, that the payment of reasonable compensation for services rendered and the distribution of assets on dissolution shall not be considered pecuniary gain or profit or distribution of earnings in an association or corporation all of whose members are nonprofit corporations. Distribution of earnings to member organizations does not deprive it of the status of a nonprofit organization.

(B) An F-1 permit may be issued to any nonprofit organization to allow the nonprofit organization and its members and their guests to lawfully bring beer, wine, and intoxicating liquor in its original package, flasks, or other containers into a convention facility for consumption therein, if both of the following requirements are met:

(1) The superintendent of liquor control is satisfied the organization meets the definition of a nonprofit organization as set forth in division (A)(2) of this section, the nonprofit organization's membership includes persons residing in two or more states, and the organization's total membership is in excess of five hundred. The superintendent may accept a sworn statement by the president or other chief executive officer of the nonprofit organization as proof of the matters required in this division.

(2) The managing official or employee of the convention facility has given written consent to the use of the convention facility and to the application for the F-1 permit, as shown in the nonprofit organization's application to the superintendent.

(C) The superintendent shall specify individually the effective period of each F-1 permit on the permit, which shall not exceed three days. The fee for an F-1 permit is ~~one~~ two hundred ~~twenty-five~~ fifty dollars. The superintendent shall prepare and make available application forms to request F-1 permits and may require applicants to furnish such information as the superintendent determines to be necessary for the administration of this section.

(D) No holder of an F-1 permit shall make a specific charge for beer, wine, or intoxicating liquor by the drink, or in its original package, flasks, or other containers in connection with its use of the convention facility under

the permit.

Sec. 4303.202. (A) The division of liquor control may issue an F-2 permit to an association or corporation, or to a recognized subordinate lodge, chapter, or other local unit of an association or corporation, to sell beer or intoxicating liquor by the individual drink at an event to be held on premises located in a political subdivision or part thereof where the sale of beer or intoxicating liquor on that day is otherwise permitted by law.

The division of liquor control may issue an F-2 permit to an association or corporation, or to a recognized subordinate lodge, chapter, or other local unit of an association or corporation, to sell beer, wine, and spirituous liquor by the individual drink at an event to be held on premises located in a political subdivision or part thereof where the sale of beer and wine, but not spirituous liquor, is otherwise permitted by law on that day.

Notwithstanding section 1711.09 of the Revised Code, this section applies to any association or corporation or a recognized subordinate lodge, chapter, or other local unit of an association or corporation.

In order to receive an F-2 permit, the association, corporation, or local unit shall be organized not for profit, shall be operated for a charitable, cultural, fraternal, or educational purpose, and shall not be affiliated with the holder of any class of liquor permit, other than a D-4 permit.

The premises on which the permit is to be used shall be clearly defined and sufficiently restricted to allow proper supervision of the permit use by state and local law enforcement personnel. An F-2 permit may be issued for the same premises for which another class of permit is issued.

No F-2 permit shall be effective for more than forty-eight consecutive hours, and sales shall be confined to the same hours permitted to the holder of a D-3 permit. The division shall not issue more than two F-2 permits in one calendar year to the same association, corporation, or local unit of an association or corporation. The fee for an F-2 permit is ~~seventy-five~~ one hundred fifty dollars.

If an applicant wishes the holder of a D-3, D-4, or D-5 permit to conduct the sale of beer and intoxicating liquor at the event, the applicant may request that the F-2 permit be issued jointly to the association, corporation, or local unit and the D-permit holder. If a permit is issued jointly, the association, corporation, or local unit and the D-permit holder shall both be held responsible for any conduct that violates laws pertaining to the sale of alcoholic beverages, including sales by the D-permit holder; otherwise, the association, corporation, or local unit shall be held responsible. In addition to the permit fee paid by the association, corporation, or local unit, the D-permit holder shall pay a fee of ten dollars.

A D-permit holder may receive an unlimited number of joint F-2 permits.

Any association, corporation, or local unit applying for an F-2 permit shall file with the application a statement of the organizational purpose of the association, corporation, or local unit, the location and purpose of the event, and a list of its officers. The application form shall contain a notice that a person who knowingly makes a false statement on the application or statement is guilty of the crime of falsification, a misdemeanor of the first degree. In ruling on an application, the division shall consider, among other things, the past activities of the association, corporation, or local unit and any D-permit holder while operating under other F-2 permits, the location of the event for which the current application is made, and any objections of local residents or law enforcement authorities. If the division approves the application, it shall send copies of the approved application to the proper law enforcement authorities prior to the scheduled event.

Using the procedures of Chapter 119. of the Revised Code, the liquor control commission may adopt such rules as are necessary to administer this section.

(B) No association, corporation, local unit of an association or corporation, or D-permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of such permit and on any officer, agent, or employee of such permit holder.

Sec. 4303.203. (A) As used in this section:

(1) "Convention facility" and "nonprofit corporation" have the same meanings as in section 4303.201 of the Revised Code.

(2) "Hotel" means a hotel described in section 3731.01 of the Revised Code that has at least fifty rooms for registered transient guests and that is required to be licensed pursuant to section 3731.03 of the Revised Code.

(B) An F-3 permit may be issued to an organization whose primary purpose is to support, promote, and educate members of the beer, wine, or mixed beverage industries, to allow the organization to bring beer, wine, or mixed beverages in their original packages or containers into a convention facility or hotel for consumption in the facility or hotel, if all of the following requirements are met:

(1) The superintendent of liquor control is satisfied that the organization is a nonprofit organization and that the organization's membership is in excess of two hundred fifty persons.

(2) The general manager or the equivalent officer of the convention facility or hotel provides a written consent for the use of a portion of the facility or hotel by the organization and a written statement that the facility's

or hotel's permit privileges will be suspended in the portion of the facility or hotel in which the F-3 permit is in force.

(3) The organization provides a written description that clearly sets forth the portion of the convention facility or hotel in which the F-3 permit will be used.

(4) The organization provides a written statement as to its primary purpose and the purpose of its event at the convention facility or hotel.

(5) Division (C) of this section does not apply.

(C) No F-3 permit shall be issued to any nonprofit organization that is created by or for a specific manufacturer, supplier, distributor, or retailer of beer, wine, or mixed beverages.

(D) Notwithstanding division (E) of section 4301.22 of the Revised Code, a holder of an F-3 permit may obtain by donation beer, wine, or mixed beverages from any manufacturer or producer of beer, wine, or mixed beverages.

(E) Nothing in this chapter prohibits the holder of an F-3 permit from bringing into the portion of the convention facility or hotel covered by the permit beer, wine, or mixed beverages otherwise not approved for sale in this state.

(F) Notwithstanding division (E) of section 4301.22 of the Revised Code, no holder of an F-3 permit shall make any charge for any beer, wine, or mixed beverage served by the drink, or in its original package or container, in connection with the use of the portion of the convention facility or hotel covered by the permit.

(G) The division of liquor control shall prepare and make available an F-3 permit application form and may require applicants for the permit to provide information, in addition to that required by this section, that is necessary for the administration of this section.

(H) An F-3 permit shall be effective for a period not to exceed five consecutive days. The division of liquor control shall not issue more than three F-3 permits per calendar year to the same nonprofit organization. The fee for an F-3 permit is ~~one three~~ one hundred ~~fifty~~ thirty dollars.

Sec. 4303.204. (A) The division of liquor control may issue an F-4 permit to an association or corporation organized not-for-profit in this state to conduct an event that includes the introduction, showcasing, or promotion of Ohio wines, if the event has all of the following characteristics:

(1) It is coordinated by that association or corporation, and the association or corporation is responsible for the activities at it.

(2) It has as one of its purposes the intent to introduce, showcase, or promote Ohio wines to persons who attend it.

(3) It includes the sale of food for consumption on the premises where sold.

(4) It features at least three A-2 permit holders who sell Ohio wine at it.

(B) The holder of an F-4 permit may furnish, without charge, wine that it has obtained from the A-2 permit holders that are participating in the event for which the F-4 permit is issued, in two-ounce samples for consumption on the premises where furnished and may sell such wine by the glass for consumption on the premises where sold. The holder of an A-2 permit that is participating in the event for which the F-4 permit is issued may sell wine that it has manufactured, in sealed containers for consumption off the premises where sold. Wine may be furnished or sold on the premises of the event for which the F-4 permit is issued only where and when the sale of wine is otherwise permitted by law.

(C) The premises of the event for which the F-4 permit is issued shall be clearly defined and sufficiently restricted to allow proper enforcement of the permit by state and local law enforcement officers. If an F-4 permit is issued for all or a portion of the same premises for which another class of permit is issued, that permit holder's privileges will be suspended in that portion of the premises in which the F-4 permit is in effect.

(D) No F-4 permit shall be effective for more than seventy-two consecutive hours. No sales or furnishing of wine shall take place under an F-4 permit after one a.m.

(E) The division shall not issue more than six F-4 permits to the same not-for-profit association or corporation in any one calendar year.

(F) An applicant for an F-4 permit shall apply for the permit not later than thirty days prior to the first day of the event for which the permit is sought. The application for the permit shall list all of the A-2 permit holders that will participate in the event for which the F-4 permit is sought. The fee for the F-4 permit is ~~thirty~~ sixty dollars per day.

The division shall prepare and make available an F-4 permit application form and may require applicants for and holders of the F-4 permit to provide information that is in addition to that required by this section and that is necessary for the administration of this section.

(G)(1) The holder of an F-4 permit is responsible for, and is subject to penalties for, any violations of this chapter or Chapter 4301. of the Revised Code or the rules adopted under this and that chapter.

(2) An F-4 permit holder shall not allow an A-2 permit holder to participate in the event for which the F-4 permit is issued if the A-2 or A-1-A permit of that A-2 permit holder is under suspension.

(3) The division may refuse to issue an F-4 permit to an applicant who

has violated any provision of this chapter or Chapter 4301. of the Revised Code during the applicant's previous operation under an F-4 permit, for a period of up to two years after the date of the violation.

(H)(1) Notwithstanding division (E) of section 4301.22 of the Revised Code, an A-2 permit holder that participates in an event for which an F-4 permit is issued may donate wine that it has manufactured to the holder of that F-4 permit. The holder of an F-4 permit may return unused and sealed containers of wine to the A-2 permit holder that donated the wine at the conclusion of the event for which the F-4 permit was issued.

(2) The participation by an A-2 permit holder or its employees in an event for which an F-4 permit is issued does not violate section 4301.24 of the Revised Code.

Sec. 4303.205. (A) As used in this section:

(1) "Festival" means an event organized by a nonprofit organization that includes food, music, and entertainment and the participation of at least five riverboats.

(2) "Nonprofit organization" has the same meaning as in section 4303.201 of the Revised Code.

(B) The division of liquor control may issue an F-5 permit to the owner or operator of a riverboat that has a capacity in excess of fifty-five persons, that is not regularly docked in this state, and whose owner or operator has entered into a written contract with a nonprofit organization for the riverboat to participate in a festival.

(C) The holder of an F-5 permit may sell beer and any intoxicating liquor, only by the individual drink in glass and from the container, for consumption on the premises where sold until one a.m., on any day of the week, including Sunday.

(D) The division shall prepare and make available an F-5 permit application form and may require applicants for the permit to provide information, in addition to that required by this section, that is necessary for the administration of this section.

(E) Sales under an F-5 permit are not affected by whether sales of beer or intoxicating liquor for consumption on the premises where sold are permitted to be made by persons holding another type of permit in the precinct or at the particular location where the riverboat is located.

(F) No F-5 permit shall be in effect for more than six consecutive days.

(G) The division shall not issue more than one F-5 permit in any one calendar year for the same riverboat.

(H) The fee for an F-5 permit is one hundred eighty dollars.

Sec. 4303.21. Permit G may be issued to the owner of a pharmacy in

charge of a licensed pharmacist to be named in ~~such~~ the permit for the sale at retail of alcohol for medicinal purposes in quantities at each sale of not more than one gallon upon the written prescription of a physician or dentist who is lawfully and regularly engaged in the practice of the physician's or dentist's profession in this state, and for the sale of industrial alcohol for mechanical, chemical, or scientific purposes to a person known by the seller to be engaged in ~~such~~ mechanical, chemical, or scientific pursuits; all subject to section 4303.34 of the Revised Code. The fee for this permit ~~if fifty~~ is one hundred dollars.

Sec. 4303.22. Permit H may be issued for a fee of ~~one~~ three hundred ~~fifty~~ dollars to a carrier by motor vehicle who also holds a license issued by the public utilities commission to transport beer, intoxicating liquor, and alcohol, or any of them, in this state for delivery or use in this state. This section does not prevent the division of liquor control from contracting with common or contract carriers for the delivery or transportation of liquor for the division, and any contract or common carrier so contracting with the division is eligible for an H permit. Manufacturers or wholesale distributors of beer or intoxicating liquor other than spirituous liquor who transport or deliver their own products to or from their premises licensed under this chapter and Chapter 4301. of the Revised Code by their own trucks as an incident to the purchase or sale of such beverages need not obtain an H permit. Carriers by rail shall receive an H permit upon application for it.

This section does not prevent the division from issuing, upon the payment of the permit fee, an H permit to any person, partnership, firm, or corporation licensed by any other state to engage in the business of manufacturing and brewing or producing beer, wine, and mixed beverages or any person, partnership, firm, or corporation licensed by the United States or any other state to engage in the business of importing beer, wine, and mixed beverages manufactured outside the United States. The manufacturer, brewer, or importer of products manufactured outside the United States, upon the issuance of an H permit, may transport, ship, and deliver only its own products to holders of B-1 or B-5 permits in Ohio in motor trucks and equipment owned and operated by such class H permit holder. No H permit shall be issued by the division to such applicant until the applicant files with the division a liability insurance certificate or policy satisfactory to the division, in a sum of not less than one thousand nor more than five thousand dollars for property damage and for not less than five thousand nor more than fifty thousand dollars for loss sustained by reason of injury or death and with such other terms as the division considers necessary to adequately protect the interest of the public, having due regard for the number of

persons and amount of property affected. The certificate or policy shall insure the manufacturer, brewer, or importer of products manufactured outside the United States against loss sustained by reason of the death of or injury to persons, and for loss of or damage to property, from the negligence of such class H permit holder in the operation of its motor vehicles or equipment in this state.

Sec. 4303.23. Permit I may be issued to wholesale druggists to purchase alcohol from the holders of A-3 permits and to import alcohol into ~~Ohio~~ this state subject to ~~such~~ terms ~~as are~~ imposed by the division of liquor control; to sell at wholesale to physicians, dentists, druggists, veterinary surgeons, manufacturers, hospitals, infirmaries, and medical or educational institutions using such alcohol for medicinal, mechanical, chemical, or scientific purposes, and to holders of G permits for nonbeverage purposes only; and to sell alcohol at retail in total quantities at each sale of not more than one quart, upon the written prescription of a physician or dentist who is lawfully and regularly engaged in the practice of ~~his~~ the physician's or dentist's profession in this state. The sale of alcohol under this section is subject to section 4303.34 of the Revised Code. The fee for this permit is ~~one~~ two hundred dollars.

"Wholesale druggists," as used in this section includes all persons holding federal wholesale liquor dealers' licenses and who are engaged in the sale of medicinal drugs, proprietary medicines, and surgical and medical appliances and apparatus, at wholesale.

Sec. 4303.231. Permit W may be issued to a manufacturer or supplier of beer or intoxicating liquor to operate a warehouse for the storage of beer or intoxicating liquor within this state and to sell ~~such~~ those products from the warehouse only to holders of B permits in this state and to other customers outside this state under rules promulgated by the liquor control commission. Each holder of a B permit with a consent to import on file with the division of liquor control may purchase beer or intoxicating liquor if designated by the permit to make ~~such~~ those purchases, from the holder of a W permit. The fee for a W permit is one thousand ~~two~~ five hundred ~~fifty~~ sixty-three dollars for each warehouse during the year covered by the permit.

Sec. 4501.06. The taxes, fees, and fines levied, charged, or referred to in division (C)(1) of section 4503.10, division (D) of section 4503.182, and sections 4505.11, 4505.111, 4506.08, 4506.09, 4507.23, 4508.05, 4923.12, and 5502.12 of the Revised Code, unless otherwise designated by law, shall be deposited in the state treasury to the credit of the state highway safety fund, which is hereby created, and shall, after receipt of certifications from the commissioners of the sinking fund certifying, as required by sections

5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, be used for the purpose of enforcing and paying the expenses of administering the law relative to the registration and operation of motor vehicles on the public roads or highways. Amounts credited to the fund may also be used to pay the expenses of administering and enforcing the laws under which such fees were collected. All investment earnings of the state highway safety fund shall be credited to the fund.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code;

(b) The home is located on land that is owned by the owner of the home;

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11 of the Revised Code.

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code;

(b) The home is located on land that is owned by the owner of the home;

(c) The owner of the home has elected to have the home taxed as real

property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid;

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate.

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section.

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not acquired situs on the first day of January, but that acquires situs during the year, shall attach on the next first day of January. The lien shall continue until the tax, including any penalty or interest, is paid.

(3)(a) The situs of a manufactured or mobile home located in this state on the first day of January is the local taxing district in which the home is located on that date.

(b) The situs of a manufactured or mobile home not located in this state on the first day of January, but located in this state subsequent to that date, is the local taxing district in which the home is located thirty days after it is acquired or first enters this state.

(4) The tax is collected by and paid to the county treasurer of the county containing the taxing district in which the home has its situs.

(D) The manufactured home tax shall be computed and assessed by the county auditor of the county containing the taxing district in which the home has its situs as follows:

(1) On a home that acquired situs in this state prior to January 1, 2000;

(a) By multiplying the assessable value of the home by the tax rate of the taxing district in which the home has its situs, and deducting from the product thus obtained any reduction authorized under section 4503.065 of the Revised Code. The tax levied under this formula shall not be less than

thirty-six dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year in which the home is owned by the current owner		80%
2nd calendar year	x	75%
3rd "	x	70%
4th "	x	65%
5th "	x	60%
6th "	x	55%
7th "	x	50%
8th "	x	45%
9th "	x	40%
10th and each year thereafter		35%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year in which the home is owned by the current owner		95%
2nd calendar year	x	90%
3rd "	x	85%
4th "	x	80%
5th "	x	75%
6th "	x	70%
7th "	x	65%
8th "	x	60%

9th "	x	55%
10th and each year thereafter		50%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000:

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code.

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section.

(3) On or before the fifteenth day of January each year, the auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the tax commissioner, by journal entry, may extend the times for delivery of the duplicate for an additional fifteen days upon receiving a written application from the county auditor regarding an extension for the delivery of the duplicate, or from the county treasurer regarding an extension of the time for the billing and collection of taxes. The application shall contain a statement describing the emergency that will cause the unavoidable delay and must be received by the tax commissioner on or before the last day of the month preceding the day delivery of the duplicate is otherwise required. When an extension is granted for delivery of the duplicate, the time period for payment of taxes shall be extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the

request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this state prior to January 1, 2000, shall be taxed pursuant to division (D)(2) of this section if no manufactured home tax had been paid for the home and the home was not exempted from taxation pursuant to division (E) of this section for the year for which the taxes were not paid.

(6)(a) Immediately upon receipt of any manufactured home tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in division (F) of this section, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on that duplicate with taxes, or to an agent designated by such person, the tax bill prescribed by the tax commissioner under division (D)(7) of this section. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by such person a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period. A change in the mailing address of any tax bill shall be made in writing to the county treasurer. Failure to receive a bill required by this section does not excuse failure or delay to pay any taxes shown on the bill or, except as provided in division ~~(A)(B)(1)~~ of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

(b) After delivery of the copy of the delinquent manufactured home tax list under division (H) of this section, the county treasurer may prepare and mail to each person in whose name a home is listed an additional tax bill showing the total amount of delinquent taxes charged against the home as shown on the list. The tax bill shall include a notice that the interest charge prescribed by division (G) of this section has begun to accrue.

(7) Each tax bill prepared and mailed or delivered under division (D)(6) of this section shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner. In addition to the information

required by the commissioner, each tax bill shall contain the following information:

(a) The taxes levied and the taxes charged and payable against the manufactured or mobile home;

(b) The following notice: "Notice: If the taxes are not paid within sixty days after the county auditor delivers the delinquent manufactured home tax list to the county treasurer, you and your home may be subject to collection proceedings for tax delinquency." Failure to provide such notice has no effect upon the validity of any tax judgment to which a home may be subjected.

(c) In the case of manufactured or mobile homes taxed under division (D)(2) of this section, the following additional information:

(i) The effective tax rate. The words "effective tax rate" shall appear in boldface type.

(ii) The following notice: "Notice: If the taxes charged against this home have been reduced by the 2-1/2 per cent tax reduction for residences occupied by the owner but the home is not a residence occupied by the owner, the owner must notify the county auditor's office not later than March 31 of the year for which the taxes are due. Failure to do so may result in the owner being convicted of a fourth degree misdemeanor, which is punishable by imprisonment up to 30 days, a fine up to \$250, or both, and in the owner having to repay the amount by which the taxes were erroneously or illegally reduced, plus any interest that may apply.

If the taxes charged against this home have not been reduced by the 2-1/2 per cent tax reduction and the home is a residence occupied by the owner, the home may qualify for the tax reduction. To obtain an application for the tax reduction or further information, the owner may contact the county auditor's office at (insert the address and telephone number of the county auditor's office)."

(E)(1) A manufactured or mobile home is not subject to this section when any of the following applies:

(a) It is taxable as personal property pursuant to section 5709.01 of the Revised Code. Any manufactured or mobile home that is used as a residence shall be subject to this section and shall not be taxable as personal property pursuant to section 5709.01 of the Revised Code.

(b) It bears a license plate issued by any state other than this state unless the home is in this state in excess of an accumulative period of thirty days in any calendar year.

(c) The annual tax has been paid on the home in this state for the current year.

(d) The tax commissioner has determined, pursuant to section 5715.27 of the Revised Code, that the property is exempt from taxation, or would be exempt from taxation under Chapter 5709. of the Revised Code if it were classified as real property.

(2) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is not subject to this section if it is unused or unoccupied and stored at the owner's normal place of residence or at a recognized storage facility.

(3) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is subject to this section and shall be taxed as a manufactured or mobile home if it has a situs longer than thirty days in one location and is connected to existing utilities, unless either of the following applies:

(a) The situs is in a state facility or a camping or park area as defined in division (B), (G), (H), or (R) of section 3733.01 of the Revised Code;

(b) The situs is in a camping or park area that is a tract of land that has been limited to recreational use by deed or zoning restrictions and subdivided for sale of five or more individual lots for the express or implied purpose of occupancy by either self-contained recreational vehicles as defined in division (E) of section 3733.01 of the Revised Code or by dependent recreational vehicles as defined in division (F) of section 3733.01 of the Revised Code.

(F) Except as provided in division (D)(3) of this section, the manufactured home tax is due and payable as follows:

(1) When a manufactured or mobile home has a situs in this state, as provided in this section, on the first day of January, one-half of the amount of the tax is due and payable on or before the first day of March and the balance is due and payable on or before the thirty-first day of July. At the option of the owner of the home, the tax for the entire year may be paid in full on the first day of March.

(2) When a manufactured or mobile home first acquires a situs in this state after the first day of January, no tax is due and payable for that year.

(G)(1) If one-half of the current taxes charged under this section against a manufactured or mobile home, together with the full amount of any delinquent taxes or any installment thereof required to be paid under a written undertaking, are not paid on or before the thirty-first day of January in that year, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes. If the total amount of all such taxes is not paid on or before the thirty-first

day of July, next thereafter, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a like penalty shall be charged on the balance of the total amount of such unpaid current taxes.

(2)(a) On the first day of the month following the last day the second installment of taxes may be paid without penalty beginning in 2000, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list compiled under division (H) of this section.

(b) On the first day of December beginning in 2000, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list.

(c) After a valid undertaking has been entered into for the payment of any delinquent taxes, no interest shall be charged against such delinquent taxes while the undertaking remains in effect in compliance with section 323.31 of the Revised Code. If a valid undertaking becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the undertaking was in effect. The interest shall be charged on the day the undertaking becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (G)(1) and (2) of this section had the undertaking not been in effect.

(3) If the full amount of the taxes due at either of the times prescribed by division (F) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in this division for failure to make that payment by the prescribed time.

(4) The treasurer shall compile and deliver to the county auditor a list of

all tax payments the treasurer has received as provided in division (G)(3) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

(H)(1) Beginning in 2000, the county auditor shall compile annually a "delinquent manufactured home tax list" consisting of homes the county treasurer's records indicate have taxes that were not paid within the time prescribed by divisions (D)(3) and (F) of this section, have taxes that remain unpaid from prior years, or have unpaid tax penalties or interest that have been assessed.

(2) Within thirty days after the settlement under division (H)(2) of section 321.24 of the Revised Code beginning in 2000, the county auditor shall deliver a copy of the delinquent manufactured home tax list to the county treasurer. The auditor shall update and publish the delinquent manufactured home tax list annually in the same manner as delinquent real property tax lists are published. The county auditor shall apportion the cost of publishing the list among taxing districts in proportion to the amount of delinquent manufactured home taxes so published that each taxing district is entitled to receive upon collection of those taxes.

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy

or sale on execution in the enforcement of the judgment.

(I) The total amount of taxes collected shall be distributed in the following manner: four per cent shall be allowed as compensation to the county auditor for the county auditor's service in assessing the taxes; two per cent shall be allowed as compensation to the county treasurer for the services the county treasurer renders as a result of the tax levied by this section. Such amounts shall be paid into the county treasury, to the credit of the county general revenue fund, on the warrant of the county auditor. Fees to be paid to the credit of the real estate assessment fund shall be collected pursuant to division (B) of section 319.54 of the Revised Code and paid into the county treasury, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the county in which the taxes are collected and paid in the same ratio as those taxes were collected for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a manufactured or mobile home in Ohio except as provided in sections 4503.04 and 5741.02 of the Revised Code.

(J) An agreement to purchase or a bill of sale for a manufactured home shall show whether or not the furnishings and equipment are included in the purchase price.

(K) If the county treasurer and the county prosecuting attorney agree that an item charged on the delinquent manufactured home tax list is uncollectible, they shall certify that determination and the reasons to the county board of revision. If the board determines the amount is uncollectible, it shall certify its determination to the county auditor, who shall strike the item from the list.

(L)(1) The county auditor shall appraise at its true value any manufactured or mobile home in which ownership is transferred or which first acquires situs in this state on or after January 1, 2000, and any manufactured or mobile home the owner of which has elected, under division (D)(4) of this section, to have the home taxed under division (D)(2) of this section. The true value shall include the value of the home, any additions, and any fixtures, but not any furnishings in the home. In determining the true value of a manufactured or mobile home, the auditor shall consider all facts and circumstances relating to the value of the home, including its age, its capacity to function as a residence, any obsolete characteristics, and other factors that may tend to prove its true value.

(2)(a) If a manufactured or mobile home has been the subject of an arm's length sale between a willing seller and a willing buyer within a

reasonable length of time prior to the determination of true value, the auditor shall consider the sale price of the home to be the true value for taxation purposes.

(b) The sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the home if either of the following occurred after the sale:

(i) The home has lost value due to a casualty;

(ii) An addition or fixture has been added to the home.

(3) The auditor shall have each home viewed and appraised at least once in each six-year period in the same year in which real property in the county is appraised pursuant to Chapter 5713. of the Revised Code, and shall update the appraised values in the third calendar year following the appraisal. The person viewing or appraising a home may enter the home to determine by actual view any additions or fixtures that have been added since the last appraisal. In conducting the appraisals and establishing the true value, the auditor shall follow the procedures set forth for appraising real property in sections 5713.01 and 5713.03 of the Revised Code.

(4) The auditor shall place the true value of each home on the manufactured home tax list upon completion of an appraisal.

(5)(a) If the auditor changes the true value of a home, the auditor shall notify the owner of the home in writing, delivered by mail or in person. The notice shall be given at least thirty days prior to the issuance of any tax bill that reflects the change. Failure to receive the notice does not invalidate any proceeding under this section.

(b) Any owner of a home or any other person or party listed in division (A)(1) of section 5715.19 of the Revised Code may file a complaint against the true value of the home as appraised under this section. The complaint shall be filed with the county auditor on or before the thirty-first day of March of the current tax year or the date of closing of the collection for the first half of manufactured home taxes for the current tax year, whichever is later. The auditor shall present to the county board of revision all complaints filed with the auditor under this section. The board shall hear and investigate the complaint and may take action on it as provided under sections 5715.11 to 5715.19 of the Revised Code.

(c) If the county board of revision determines, pursuant to a complaint against the valuation of a manufactured or mobile home filed under this section, that the amount of taxes, assessments, or other charges paid was in excess of the amount due based on the valuation as finally determined, then the overpayment shall be refunded in the manner prescribed in section 5715.22 of the Revised Code.

(d) Payment of all or part of a tax under this section for any year for which a complaint is pending before the county board of revision does not abate the complaint or in any way affect the hearing and determination thereof.

(M) If the county auditor determines that any tax, assessment, charge, or any part thereof has been erroneously charged as a result of a clerical error as defined in section 319.35 of the Revised Code, the county treasurer and the county board of revision shall remove the erroneous charges on the manufactured home tax list or delinquent manufactured home tax list, and refund any erroneous charges that have been collected, with interest, in the same manner as is prescribed in section 319.36 of the Revised Code for erroneous charges against real property.

(N) As used in this section and section 4503.061 of the Revised Code:

(1) "Manufactured home taxes" includes taxes, penalties, and interest charged under division (C) or (G) of this section and any penalties charged under division (G) or (H)(5) of section 4503.061 of the Revised Code.

(2) "Current taxes" means all manufactured home taxes charged against a manufactured or mobile home that have not appeared on the manufactured home tax list for any prior year. Current taxes become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent.

(3) "Delinquent taxes" means:

(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year, and that remain unpaid;

(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest.

Sec. 4503.101. (A) The registrar of motor vehicles shall adopt rules to establish a system of motor vehicle registration based upon the type of vehicle to be registered, the type of ownership of the vehicle, the class of license plate to be issued, and any other factor the registrar determines to be relevant. Except for commercial cars, buses, trailers, and semitrailers taxed under section 4503.042 of the Revised Code; except for rental vehicles owned by motor vehicle renting dealers; and except as otherwise provided by rule, motor vehicles owned by an individual shall be registered based upon the motor vehicle owner's date of birth. Beginning with the 2004

registration year, the registrar shall assign motor vehicles to the registration periods established by rules adopted under this section.

(B) The registrar shall adopt rules to permit motor vehicle owners residing together at one address to select the date of birth of any one of the owners as the date to register any or all of the vehicles at that residence address, as shown in the records of the bureau of motor vehicles.

(C) The registrar shall adopt rules to assign and reassign all commercial cars, ~~buses,~~ trailers, and semitrailers taxed under section 4503.042 of the Revised Code and all rental vehicles owned by motor vehicle renting dealers to a system of registration so that the registrations of approximately one-twelfth of all such vehicles expire on the last day of each month of a calendar year. To effect a reassignment from the registration period in effect on ~~the effective date of this amendment~~ June 30, 2003, to the new registration periods established by the rules adopted under this section as amended, the rules may require the motor vehicle to be registered for more or less than a twelve-month period at the time the motor vehicle's registration is subject to its initial renewal following the effective date of such rules. If necessary to effect an efficient transition, the rules may provide that the registration reassignments take place over two consecutive registration periods. The registration taxes to be charged shall be determined by the registrar on the basis of the annual tax otherwise due on the motor vehicle, prorated in accordance with the number of months for which the motor vehicle is registered, except that the fee established by division (C)(1) of section 4503.10 of the Revised Code shall be collected in full for each renewal that occurs during the transition period and shall not be prorated.

(D) The registrar shall adopt rules to permit any commercial motor vehicle owner or motor vehicle renting dealer who owns two or more motor vehicles to request the registrar to permit the owner to separate the owner's fleet into up to four divisions for assignment to separate dates upon which to register the vehicles, provided that the registrar may disapprove any such request whenever the registrar has reason to believe that an uneven distribution of registrations throughout the calendar year has developed or is likely to develop.

(E) Every owner or lessee of a motor vehicle holding a certificate of registration shall notify the registrar of any change of the owner's or lessee's correct address within ten days after the change occurs. The notification shall be in writing on a form provided by the registrar or by electronic means approved by the registrar and shall include the full name, date of birth if applicable, license number, county of residence or place of business, social security account number of an individual or federal tax identification

number of a business, and new address.

(F) As used in this section, "motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

Sec. 4503.103. (A)(1)(a) The registrar of motor vehicles may adopt rules to permit any person or lessee, other than a person receiving an apportioned license plate under the international registration plan, who owns or leases one or more motor vehicles to file a written application for registration for no more than five succeeding registration years. The rules adopted by the registrar may designate the classes of motor vehicles that are eligible for such registration. At the time of application, all annual taxes and fees shall be paid for each year for which the person is registering.

(b) ~~The (i) Except as provided in division (A)(1)(b)(ii) of this section, the registrar shall adopt rules to permit any person, other than a person receiving an apportioned license plate under the international registration plan and other than the owner of a commercial car used solely in intrastate commerce, who owns a motor vehicle to file an application for registration for the next two succeeding registration years. At the time of application, the person shall pay the annual taxes and fees for each registration year, calculated in accordance with division (C) of section 4503.11 of the Revised Code. A person who is registering a vehicle under division (A)(1)(b) of this section shall pay for each year of registration the additional fee established under division (C)(1) of section 4503.10 of the Revised Code. The person shall also pay one and one-half times the amount of the deputy registrar service fee specified in division (D) of section 4503.10 of the Revised Code or the bureau of motor vehicles service fee specified in division (G) of that section, as applicable.~~

(ii) Division (A)(1)(b)(i) of this section does not apply to a person receiving an apportioned license plate under the international registration plan, or the owner of a commercial car used solely in intrastate commerce, or the owner of a bus as defined in section 4513.50 of the Revised Code.

(2) No person applying for a multi-year registration under division (A)(1) of this section is entitled to a refund of any taxes or fees paid.

(3) The registrar shall not issue to any applicant who has been issued a final, nonappealable order under division (B) of this section a multi-year registration or renewal thereof under this division or rules adopted under it for any motor vehicle that is required to be inspected under section 3704.14 of the Revised Code the district of registration of which, as determined under section 4503.10 of the Revised Code, is or is located in the county named in the order.

(B) Upon receipt from the director of environmental protection of a

notice issued under division (J) of section 3704.14 of the Revised Code indicating that an owner of a motor vehicle that is required to be inspected under that section who obtained a multi-year registration for the vehicle under division (A) of this section or rules adopted under that division has not obtained an inspection certificate for the vehicle in accordance with that section in a year intervening between the years of issuance and expiration of the multi-year registration in which the owner is required to have the vehicle inspected and obtain an inspection certificate for it under division (F)(1)(a) of that section, the registrar in accordance with Chapter 119. of the Revised Code shall issue an order to the owner impounding the certificate of registration and identification license plates for the vehicle. The order also shall prohibit the owner from obtaining or renewing a multi-year registration for any vehicle that is required to be inspected under that section, the district of registration of which is or is located in the same county as the county named in the order during the number of years after expiration of the current multi-year registration that equals the number of years for which the current multi-year registration was issued.

An order issued under this division shall require the owner to surrender to the registrar the certificate of registration and license plates for the vehicle named in the order within five days after its issuance. If the owner fails to do so within that time, the registrar shall certify that fact to the county sheriff or local police officials who shall recover the certificate of registration and license plates for the vehicle.

(C) Upon the occurrence of either of the following circumstances, the registrar in accordance with Chapter 119. of the Revised Code shall issue to the owner a modified order rescinding the provisions of the order issued under division (B) of this section impounding the certificate of registration and license plates for the vehicle named in that original order:

(1) Receipt from the director of environmental protection of a subsequent notice under division (J) of section 3704.14 of the Revised Code that the owner has obtained the inspection certificate for the vehicle as required under division (F)(1)(a) of that section;

(2) Presentation to the registrar by the owner of the required inspection certificate for the vehicle.

(D) The owner of a motor vehicle for which the certificate of registration and license plates have been impounded pursuant to an order issued under division (B) of this section, upon issuance of a modified order under division (C) of this section, may apply to the registrar for their return. A fee of two dollars and fifty cents shall be charged for the return of the certificate of registration and license plates for each vehicle named in the

application.

Sec. 4505.06. (A)(1) Application for a certificate of title shall be made in a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county. Any payments required by this chapter shall be considered as accompanying any electronically transmitted application when payment actually is received by the clerk. Payment of any fee or taxes may be made by electronic transfer of funds.

(2) The application for a certificate of title shall be accompanied by the fee prescribed in section 4505.09 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

(3) If a certificate of title previously has been issued for a motor vehicle in this state, the application for a certificate of title also shall be accompanied by that certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the motor vehicle in this state, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate or by a certificate of title of another state from which the motor vehicle was brought into this state. If the application refers to a motor vehicle last previously registered in another state, the application also shall be accompanied by the physical inspection certificate required by section 4505.061 of the Revised Code. If the application is made by two persons regarding a motor vehicle in which they wish to establish joint ownership with right of survivorship, they may do so as provided in section 2131.12 of the Revised Code. If the applicant requests a designation of the motor vehicle in beneficiary form so that upon the death of the owner of the motor vehicle, ownership of the motor vehicle will pass to a designated transfer-on-death beneficiary or beneficiaries, the applicant may do so as provided in section 2131.13 of the Revised Code. A person who establishes ownership of a motor vehicle that is transferable on death in accordance with section 2131.13 of the Revised Code may terminate that type of ownership or change the designation of the transfer-on-death beneficiary or

beneficiaries by applying for a certificate of title pursuant to this section. The clerk shall retain the evidence of title presented by the applicant and on which the certificate of title is issued, except that, if an application for a certificate of title is filed electronically by an electronic motor vehicle dealer on behalf of the purchaser of a motor vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. ~~The electronic motor vehicle dealer shall forward the actual application and all other documents relating to the sale of the motor vehicle to any clerk within thirty days after the certificate of title is issued.~~ The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of a motor vehicle when an electronic motor vehicle dealer files the application for a certificate of title electronically on behalf of the purchaser.

The clerk shall use reasonable diligence in ascertaining whether or not the facts in the application for a certificate of title are true by checking the application and documents accompanying it or the electronic record to which a dealer converted the application and accompanying documents with the records of motor vehicles in the clerk's office. If the clerk is satisfied that the applicant is the owner of the motor vehicle and that the application is in the proper form, the clerk, within five business days after the application is filed, shall issue a physical certificate of title over the clerk's signature and sealed with the clerk's seal unless the applicant specifically requests the clerk not to issue a physical certificate of title and instead to issue an electronic certificate of title. For purposes of the transfer of a certificate of title, if the clerk is satisfied that the secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(4) In the case of the sale of a motor vehicle to a general buyer or user by a dealer, by a motor vehicle leasing dealer selling the motor vehicle to the lessee or, in a case in which the leasing dealer subleased the motor vehicle, the sublessee, at the end of the lease agreement or sublease agreement, or by a manufactured home broker, the certificate of title shall be obtained in the name of the buyer by the dealer, leasing dealer, or manufactured home broker, as the case may be, upon application signed by the buyer. The certificate of title shall be issued, or the process of entering the certificate of title application information into the automated title processing system if a physical certificate of title is not to be issued shall be

completed, within five business days after the application for title is filed with the clerk. If the buyer of the motor vehicle previously leased the motor vehicle and is buying the motor vehicle at the end of the lease pursuant to that lease, the certificate of title shall be obtained in the name of the buyer by the motor vehicle leasing dealer who previously leased the motor vehicle to the buyer or by the motor vehicle leasing dealer who subleased the motor vehicle to the buyer under a sublease agreement.

In all other cases, except as provided in section 4505.032 and division (D)(2) of section 4505.11 of the Revised Code, such certificates shall be obtained by the buyer.

(5)(a)(i) If the certificate of title is being obtained in the name of the buyer by a motor vehicle dealer or motor vehicle leasing dealer and there is a security interest to be noted on the certificate of title, the dealer or leasing dealer shall submit the application for the certificate of title and payment of the applicable tax to a clerk within seven business days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle. Submission of the application for the certificate of title and payment of the applicable tax within the required seven business days may be indicated by postmark or receipt by a clerk within that period.

(ii) Upon receipt of the certificate of title with the security interest noted on its face, the dealer or leasing dealer shall forward the certificate of title to the secured party at the location noted in the financing documents or otherwise specified by the secured party.

(iii) A motor vehicle dealer or motor vehicle leasing dealer is liable to a secured party for a late fee of ten dollars per day for each certificate of title application and payment of the applicable tax that is submitted to a clerk more than seven business days but less than twenty-one days after the later of the delivery of the motor vehicle to the buyer or the date the dealer or leasing dealer obtains the manufacturer's or importer's certificate, or certificate of title issued in the name of the dealer or leasing dealer, for the motor vehicle and, from then on, twenty-five dollars per day until the application and applicable tax are submitted to a clerk.

(b) In all cases of transfer of a motor vehicle, the application for certificate of title shall be filed within thirty days after the assignment or delivery of the motor vehicle. If an application for a certificate of title is not filed within the period specified in division (A)(5)(b) of this section, the clerk shall collect a fee of five dollars for the issuance of the certificate, except that no such fee shall be required from a motor vehicle salvage

dealer, as defined in division (A) of section 4738.01 of the Revised Code, who immediately surrenders the certificate of title for cancellation. The fee shall be in addition to all other fees established by this chapter, and shall be retained by the clerk. The registrar shall provide, on the certificate of title form prescribed by section 4505.07 of the Revised Code, language necessary to give evidence of the date on which the assignment or delivery of the motor vehicle was made.

(6) As used in division (A) of this section, "lease agreement," "lessee," and "sublease agreement" have the same meanings as in section 4505.04 of the Revised Code.

(B) The clerk, except as provided in this section, shall refuse to accept for filing any application for a certificate of title and shall refuse to issue a certificate of title unless the dealer or manufactured home broker or the applicant, in cases in which the certificate shall be obtained by the buyer, submits with the application payment of the tax levied by or pursuant to Chapters 5739. and 5741. of the Revised Code based on the purchaser's county of residence. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner showing payment of the tax or a receipt issued by the commissioner showing the payment of the tax. When submitting payment of the tax to the clerk, a dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent, and the clerk shall pay the poundage fee into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by

the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter the phrase "nonactual: warning - odometer discrepancy" following the mileage designation. The clerk shall use reasonable care in transferring the information supplied by the transferor, but is not liable for any errors or omissions of the clerk or those of the clerk's deputies in the performance of the clerk's duties created by this chapter.

The registrar shall prescribe an affidavit in which the transferor shall swear to the true selling price and, except as provided in this division, the true odometer reading of the motor vehicle. The registrar may prescribe an affidavit in which the seller and buyer provide information pertaining to the odometer reading of the motor vehicle in addition to that required by this section, as such information may be required by the United States secretary of transportation by rule prescribed under authority of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

(2) Division (C)(1) of this section does not require the giving of information concerning the odometer and odometer reading of a motor vehicle when ownership of a motor vehicle is being transferred as a result of a bequest, under the laws of intestate succession, to a survivor pursuant to section 2106.18, 2131.12, or 4505.10 of the Revised Code, to a transfer-on-death beneficiary or beneficiaries pursuant to section 2131.13 of the ~~Revised~~ Revised Code, or in connection with the creation of a security interest.

(D) When the transfer to the applicant was made in some other state or in interstate commerce, the clerk, except as provided in this section, shall refuse to issue any certificate of title unless the tax imposed by or pursuant to Chapter 5741. of the Revised Code based on the purchaser's county of residence has been paid as evidenced by a receipt issued by the tax commissioner, or unless the applicant submits with the application payment of the tax. Upon payment of the tax in accordance with division (E) of this section, the clerk shall issue a receipt prescribed by the registrar and agreed upon by the tax commissioner, showing payment of the tax.

For receiving and disbursing such taxes paid to the clerk by a resident of

the clerk's county, the clerk may retain a poundage fee of one and one one-hundredth per cent. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

When the vendor is not regularly engaged in the business of selling motor vehicles, the vendor shall not be required to purchase a vendor's license or make reports concerning those sales.

(E) The clerk shall accept any payment of a tax in cash, or by cashier's check, certified check, draft, money order, or teller check issued by any insured financial institution payable to the clerk and submitted with an application for a certificate of title under division (B) or (D) of this section. The clerk also may accept payment of the tax by corporate, business, or personal check, credit card, electronic transfer or wire transfer, debit card, or any other accepted form of payment made payable to the clerk. The clerk may require bonds, guarantees, or letters of credit to ensure the collection of corporate, business, or personal checks. Any service fee charged by a third party to a clerk for the use of any form of payment may be paid by the clerk from the certificate of title administration fund created in section 325.33 of the Revised Code, or may be assessed by the clerk upon the applicant as an additional fee. Upon collection, the additional fees shall be paid by the clerk into that certificate of title administration fund.

The clerk shall make a good faith effort to collect any payment of taxes due but not made because the payment was returned or dishonored, but the clerk is not personally liable for the payment of uncollected taxes or uncollected fees. The clerk shall notify the tax commissioner of any such payment of taxes that is due but not made and shall furnish the information to the commissioner that the commissioner requires. The clerk shall deduct the amount of taxes due but not paid from the clerk's periodic remittance of tax payments, in accordance with procedures agreed upon by the tax commissioner. The commissioner may collect taxes due by assessment in the manner provided in section 5739.13 of the Revised Code.

Any person who presents payment that is returned or dishonored for any

reason is liable to the clerk for payment of a penalty over and above the amount of the taxes due. The clerk shall determine the amount of the penalty, and the penalty shall be no greater than that amount necessary to compensate the clerk for banking charges, legal fees, or other expenses incurred by the clerk in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies. Subsequently collected penalties, poundage fees, and title fees, less any title fee due the state, from returned or dishonored payments collected by the clerk shall be paid into the certificate of title administration fund. Subsequently collected taxes, less poundage fees, shall be sent by the clerk to the treasurer of state at the next scheduled periodic remittance of tax payments, with information as the commissioner may require. The clerk may abate all or any part of any penalty assessed under this division.

(F) In the following cases, the clerk shall accept for filing an application and shall issue a certificate of title without requiring payment or evidence of payment of the tax:

(1) When the purchaser is this state or any of its political subdivisions, a church, or an organization whose purchases are exempted by section 5739.02 of the Revised Code;

(2) When the transaction in this state is not a retail sale as defined by section 5739.01 of the Revised Code;

(3) When the purchase is outside this state or in interstate commerce and the purpose of the purchaser is not to use, store, or consume within the meaning of section 5741.01 of the Revised Code;

(4) When the purchaser is the federal government;

(5) When the motor vehicle was purchased outside this state for use outside this state;

(6) When the motor vehicle is purchased by a nonresident of this state for immediate removal from this state, and will be permanently titled and registered in another state, as provided by division (B)(23) of section 5739.02 of the Revised Code, and upon presentation of a copy of the affidavit provided by that section, and a copy of the exemption certificate provided by section 5739.03 of the Revised Code.

The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner requires.

(G) An application, as prescribed by the registrar and agreed to by the tax commissioner, shall be filled out and sworn to by the buyer of a motor vehicle in a casual sale. The application shall contain the following notice in

bold lettering: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months' imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

(H) For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the clerk shall accept for filing, pursuant to Chapter 5739. of the Revised Code, an application for a certificate of title for a manufactured home or mobile home without requiring payment of any tax pursuant to section 5739.02, 5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt issued by the tax commissioner showing payment of the tax. For sales of manufactured homes or mobile homes occurring on or after January 1, 2000, the applicant shall pay to the clerk an additional fee of five dollars for each certificate of title issued by the clerk for a manufactured or mobile home pursuant to division (H) of section 4505.11 of the Revised Code and for each certificate of title issued upon transfer of ownership of the home. The clerk shall credit the fee to the county certificate of title administration fund, and the fee shall be used to pay the expenses of archiving those certificates pursuant to division (A) of section 4505.08 and division (H)(3) of section 4505.11 of the Revised Code. The tax commissioner shall administer any tax on a manufactured or mobile home pursuant to Chapters 5739. and 5741. of the Revised Code.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of motor vehicle certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 4506.14. (A) Commercial driver's licenses shall expire as follows:

(1) Except as provided in division (A)(3) of this section, each such license issued to replace an operator's or chauffeur's license shall expire on the original expiration date of the operator's or chauffeur's license and, upon renewal, shall expire on the licensee's birthday in the fourth year after the date of issuance.

(2) Except as provided in division (A)(3) of this section, each such license issued as an original license to a person whose residence is in this state shall expire on the licensee's birthday in the fourth year after the date of issuance, and each such license issued to a person whose temporary residence is in this state shall expire in accordance with rules adopted by the

registrar of motor vehicles. A license issued to a person with a temporary residence in this state is nonrenewable, but may be replaced with a new license within ninety days prior to its expiration upon the applicant's compliance with all applicable requirements.

(3) Each such license issued to replace the operator's or chauffeur's license of a person who is less than twenty-one years of age, and each such license issued as an original license to a person who is less than twenty-one years of age, shall expire on the licensee's twenty-first birthday.

(B) No commercial driver's license shall be issued for a period longer than four years and ninety days. Except as provided in section 4507.12 of the Revised Code, the registrar may waive the examination of any person applying for the renewal of a commercial driver's license issued under this chapter, provided that the applicant presents either an unexpired commercial driver's license or a commercial driver's license that has expired not more than six months prior to the date of application.

(C) Subject to the requirements of this chapter and except as provided in division (A)(2) of this section in regard to a person whose temporary residence is in this state, every commercial driver's license shall be renewable ninety days before its expiration upon payment of the fees required by section 4506.08 of the Revised Code. Each person applying for renewal of a commercial driver's license shall complete the application form prescribed by section 4506.07 of the Revised Code and shall provide all certifications required. If the person wishes to retain an endorsement authorizing the person to transport hazardous materials, the person shall take and successfully complete the written test for the endorsement and shall submit to any background check required by federal law.

(D) Each person licensed as a driver under this chapter shall notify the registrar of any change in the person's address within ten days following that change. The notification shall be in writing on a form provided by the registrar and shall include the full name, date of birth, license number, county of residence, social security number, and new address of the person.

Sec. 4506.15. No person shall do any of the following:

(A) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in ~~his~~ the person's blood, breath, or urine;

(B) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more;

(C) Drive a commercial motor vehicle while under the influence of a controlled substance;

(D) Knowingly leave the scene of an accident involving a commercial

motor vehicle driven by the person;

(E) Use a commercial motor vehicle in the commission of a felony;

(F) Refuse to submit to a test under section 4506.17 of the Revised Code;

(G) Violate an out-of-service order issued under this chapter;

(H) Violate any prohibition described in divisions (B) to (G) of this section while transporting hazardous materials;

(I) Use a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in section 3719.01 of the Revised Code;

(J) Drive a commercial motor vehicle in violation of any provision of sections 4511.61 to 4511.63 of the Revised Code or any federal or local law or ordinance pertaining to railroad-highway grade crossings.

Sec. 4506.16. (A) Whoever violates division (A) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, immediately shall be placed out-of-service for twenty-four hours, in addition to any disqualification required by this section and any other penalty imposed by the Revised Code.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:

(1) Upon a first conviction for a violation of divisions (B) to (G) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, one year, ~~in addition to any other penalty imposed by the Revised Code;~~

~~(2) Upon a first conviction for a violation of division (H) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years, in addition to any other penalty imposed by the Revised Code;~~

~~(3) Upon and upon a second conviction for a violation of divisions (B) to (G) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, or any combination of such violations arising from two or more separate incidents, the person shall be disqualified for life or for any other period of time as determined by the United States secretary of transportation and designated by the director of public safety by rule, in addition to any other penalty imposed by the Revised Code;~~

(4)(2) Upon a first conviction for a violation of division (H) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years;

(3) Upon conviction of a violation of division (E)(I) of section 4506.15 of the Revised Code or a similar law of another state or a foreign

~~jurisdiction in connection with the manufacture, distribution, or dispensing of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, the person shall be disqualified for life, in addition to any other penalty imposed by the Revised Code;~~

(4) Upon a first conviction for a violation of division (J) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, occurring in a three-year period, the person shall be disqualified for not less than sixty days, upon a second conviction occurring in the three-year period, the person shall be disqualified for not less than one hundred twenty days, and upon a subsequent conviction occurring within a three-year period, the person shall be disqualified for not less than one year;

(5) Upon conviction of two serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for sixty days, ~~in addition to any other penalty imposed by the Revised Code;~~

(6) Upon conviction of three serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for one hundred twenty days, ~~in addition to any other penalty imposed by the Revised Code.~~

(C) For the purposes of this section, conviction of a violation for which disqualification is required may be evidenced by any of the following:

(1) A judgment entry of a court of competent jurisdiction in this or any other state;

(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers;

(3) A computer record obtained from or through the commercial driver's license information system;

(4) A computer record obtained from or through a state agency of this or any other state having statutory jurisdiction over commercial drivers or the records of commercial drivers.

(D) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles.

(E) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs.

(F) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division (B)(3), (4), (5), or (6) of this section and thereby is subject to

disqualification, of the offense or offenses involved, of the length of time for which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether the disqualification order is supported by reliable evidence. The registrar shall adopt rules to implement this division.

(G) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license is not otherwise suspended or revoked. A person whose commercial driver's license is suspended or revoked shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension or revocation.

(H) The disqualifications imposed under this section are in addition to any other penalty imposed by the Revised Code.

Sec. 4506.20. (A) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the information specified in section 4506.20 of the Revised Code.

(B) No employer shall knowingly permit or authorize any driver employed by ~~him~~ the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked, or canceled by any state or a foreign jurisdiction;

(2) The driver has lost ~~his~~ the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(C) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of section 4506.15 of the Revised Code.

(D) Whoever violates division (C) of this section may be assessed a fine not to exceed ten thousand dollars.

Sec. 4506.24. (A) A restricted commercial driver's license and waiver for farm-related service industries may be issued by the registrar of motor

vehicles to allow a person to operate a commercial motor vehicle during seasonal periods determined by the registrar and subject to the restrictions set forth in this section.

(B) Upon receiving an application for a restricted commercial driver's license under section 4506.07 of the Revised Code and payment of a fee as provided in section 4506.08 of the Revised Code, the registrar may issue such license to any person who meets all of the following requirements:

(1) Has at least one year of driving experience in any type of vehicle;

(2) Holds a valid driver's license, other than a restricted license, issued under Chapter 4507. of the Revised Code;

(3) Certifies that during the ~~one-year~~ two-year period immediately preceding application, all of the following apply:

(a) The person has not had more than one license;

(b) The person has not had any license suspended, revoked, or canceled;

(c) The person has not had any convictions for any type of motor vehicle for the offenses for which disqualification is prescribed in section 4506.16 of the Revised Code;

(d) The person has not had any violation of a state or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the person was at fault.

(4) Certifies and also provides evidence that the person is employed in one or more of the following farm-related service industries requiring the person to operate a commercial motor vehicle:

- (a) Custom harvesters;
- (b) Farm retail outlets and suppliers;
- (c) Agri-chemical business;
- (d) Livestock feeders.

(C) An annual waiver for farm-related service industries may be issued to authorize the holder of a restricted commercial driver's license to operate a commercial motor vehicle during seasonal periods designated by the registrar. The registrar shall determine the format of the waiver. The total number of days that a person may operate a commercial motor vehicle pursuant to a waiver for farm-related service industries shall not exceed one hundred eighty days in any twelve-month period. Each time the holder of a restricted commercial driver's license applies for a waiver for farm-related service industries, the registrar shall verify that the person meets all of the requirements set forth in division (B) of this section. The restricted commercial driver's license and waiver shall be carried at all times when a commercial motor vehicle is being operated by the holder of the license and

waiver.

(D) The holder of a restricted commercial driver's license and valid waiver for farm-related service industries may operate a class B or C commercial motor vehicle subject to all of the following restrictions:

(1) The commercial motor vehicle is operated within a distance of no more than one hundred fifty miles of the employer's place of business or the farm currently being served;

(2) The operation of the commercial motor vehicle does not involve transporting hazardous materials for which placarding is required, except as follows:

(a) Diesel fuel in quantities of one thousand gallons or less;

(b) Liquid fertilizers in vehicles or implements of husbandry with total capacities of three thousand gallons or less;

(c) Solid fertilizers that are not transported with any organic substance.

(E) Except as otherwise provided in this section an applicant for or holder of a restricted commercial driver's license and waiver for farm-related service industries is subject to the provisions of this chapter. Divisions (A)(4) and (B)(1) of section 4506.07 and sections 4506.09 and 4506.10 of the Revised Code do not apply to an applicant for a restricted commercial driver's license and waiver.

Sec. 4508.08. There is hereby created in the department of public safety the motorcycle safety and education program. The director of public safety shall administer the program in accordance with the following guidelines:

(A) The program shall include courses of instruction conducted at vocational schools, community colleges, or other suitable locations, by instructors who have obtained certification in the manner and form prescribed by the director. The courses shall meet standards established in rules adopted by the motorcycle safety foundation for courses of instruction department in motorcycle safety and education accordance with Chapter 119. of the Revised Code. The courses may include instruction for novice motorcycle operators, instruction in motorist awareness and alcohol and drug awareness, and any other kind of instruction the director considers appropriate. A reasonable tuition fee of not more than twenty-five dollars per student, as determined by the director, may be charged for each course if sufficient funds are not available in. The director may authorize private organizations or corporations to offer courses without tuition fee restrictions, but such entities are not eligible for reimbursement of expenses or subsidies from the motorcycle safety and education fund created in section 4501.13 of the Revised Code to pay all of the costs of conducting the motorcycle safety and education program.

(B) In addition to courses of instruction, the program may include provisions for equipment purchases, marketing and promotion, improving motorcycle license testing procedures, and any other provisions the director considers appropriate.

(C) The director shall evaluate the program every two years and shall periodically inspect the facilities, equipment, and procedures used in the courses of instruction.

(D) The director shall appoint at least one training specialist who shall oversee the operation of the program, establish courses of instruction, and supervise instructors. The training specialist shall be a licensed motorcycle operator and shall obtain certification in the manner and form prescribed by the director.

(E) The director may contract with other public agencies or with private organizations or corporations to assist in administering the program.

(F) Notwithstanding any provision of Chapter 102. of the Revised Code, the director, in order to administer the program, may participate in a motorcycle manufacturer's motorcycle loan program.

(G) The director shall contract with an insurance company or companies authorized to do business in this state to purchase a policy or policies of insurance with respect to the establishment or administration, or any other aspect of the operation of the program.

Sec. 4509.60. Upon acceptance of a bond with individual sureties, the registrar of motor vehicles shall forward to the county recorder of the county in which the sureties' real estate is located a notice of such deposit and pay the recorder a base fee of five dollars for filing and indexing the notice and a housing trust fund fee of five dollars pursuant to section 317.36 of the Revised Code. The recorder shall receive and file such notice and keep and index the same. Such bond shall constitute a lien in favor of the state upon the real estate so scheduled or any surety, and the lien shall exist in favor of any holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damage because of injury to property, including the loss of use thereof, resulting from the ownership, maintenance, or use of a motor vehicle after such bond was filed, upon the filing of notice to that effect by the registrar with the county recorder as provided in this section.

Sec. 4511.198. If the United States congress repeals the mandate established by Title III, Section 351 of the "Department of Transportation Appropriations Act of 2000," Public Law 106-346, 114 Stat. 1356, requiring the secretary of transportation, beginning in fiscal year 2004, to withhold a

percentage of a state's federal-aid highway money if that state has not enacted and is not enforcing a law that provides that any person with a blood alcohol concentration of eight-hundredths of one per cent or greater while operating a motor vehicle in the state is deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense, or if a federal court with jurisdiction over the entirety of this state declares the mandate to be unconstitutional or otherwise invalid, then, in lieu of the prohibited alcohol concentrations specified in sections 1547.11, 4511.19, 4511.191, and 4511.197 of the Revised Code, the prohibited concentrations shall be as follows:

(A) The prohibited alcohol concentration in a person's whole blood is ten-hundredths of one per cent by weight of alcohol per unit volume.

(B) The prohibited alcohol concentration in a person's breath is ten-hundredths of one gram by weight of alcohol per two hundred ten liters of breath.

(C) The prohibited alcohol concentration in a person's blood serum or plasma is twelve-hundredths of one per cent by weight per unit volume.

(D) The prohibited alcohol concentration in a person's urine is fourteen-hundredths of one gram by weight of alcohol per one hundred milliliters of urine.

Sec. 4511.33. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(A) A vehicle or trackless trolley shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.

(B) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle or trackless trolley shall not be driven in the center lane except when overtaking and passing another vehicle or trackless trolley where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle or trackless trolley is proceeding and is posted with signs to give notice of such allocation.

(C) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all

hours, and drivers of vehicles and trackless trolleys shall obey the directions of such signs.

(D) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

Sec. 4511.62. (A)(1) Whenever any person driving a vehicle or trackless trolley approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.

(b) A crossing gate is lowered.

(c) A flagperson gives or continues to give a signal of the approach or passage of a train.

(d) There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other vehicles, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.

(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.

(f) There is insufficient undercarriage clearance to safely negotiate the crossing.

(2) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to ~~(e)~~(f) of this section exist at the crossing.

(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

Sec. 4511.63. (A) ~~The operator of any motor vehicle or trackless trolley, carrying passengers, for hire, of any school bus, any vehicle described in division (C) of this section, or of any vehicle carrying explosives or flammable liquids as a cargo or as such part of a cargo as transporting material required to constitute a hazard be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle or trackless trolley and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and~~

shall proceed only upon exercising due care after stopping, looking, and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.

(B) This section does not apply at any ~~of the following:~~

~~(1) Street~~ street railway grade crossings within a municipal corporation, or to abandoned tracks, spur tracks, side tracks, and industrial tracks when the public utilities commission has authorized and approved the crossing of the tracks without making the stop required by this section;

~~(2) Through June 30, 1995, a street railway grade crossing where out of service signs are posted in accordance with section 4955.37 of the Revised Code.~~

(C) This section applies to any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.

(D) For purposes of this section, "bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.

Sec. 4519.55. Application for a certificate of title for an off-highway motorcycle or all-purpose vehicle shall be made upon a form prescribed by the registrar of motor vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. The application shall be filed with the clerk of any court of common pleas. An application for a certificate of title may be filed electronically by any electronic means approved by the registrar in any county with the clerk of the court of common pleas of that county.

If an application for a certificate of title is filed electronically by an electronic dealer on behalf of the purchaser of an off-highway motorcycle or all-purpose vehicle, the clerk shall retain the completed electronic record to which the dealer converted the certificate of title application and other required documents. ~~The electronic dealer shall forward the actual application and all other documents relating to the sale of the off-highway motorcycle or all-purpose vehicle to any clerk within thirty days after the certificate of title is issued.~~ The registrar, after consultation with the attorney general, shall adopt rules that govern the location at which, and the manner in which, are stored the actual application and all other documents relating to the sale of an off-highway motorcycle or all-purpose vehicle when an

electronic dealer files the application for a certificate of title electronically on behalf of the purchaser.

The application shall be accompanied by the fee prescribed in section 4519.59 of the Revised Code. The fee shall be retained by the clerk who issues the certificate of title and shall be distributed in accordance with that section. If a clerk of a court of common pleas, other than the clerk of the court of common pleas of an applicant's county of residence, issues a certificate of title to the applicant, the clerk shall transmit data related to the transaction to the automated title processing system.

If a certificate of title previously has been issued for an off-highway motorcycle or all-purpose vehicle, the application also shall be accompanied by the certificate of title duly assigned, unless otherwise provided in this chapter. If a certificate of title previously has not been issued for the off-highway motorcycle or all-purpose vehicle, the application, unless otherwise provided in this chapter, shall be accompanied by a manufacturer's or importer's certificate; by a sworn statement of ownership; or by a certificate of title, bill of sale, or other evidence of ownership required by law of another state from which the off-highway motorcycle or all-purpose vehicle was brought into this state. The registrar, in accordance with Chapter 119. of the Revised Code, shall prescribe the types of additional documentation sufficient to establish proof of ownership, including, but not limited to, receipts from the purchase of parts or components, photographs, and affidavits of other persons.

For purposes of the transfer of a certificate of title, if the clerk is satisfied that a secured party has duly discharged a lien notation but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

In the case of the sale of an off-highway motorcycle or all-purpose vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. In all other cases, the certificate shall be obtained by the purchaser. In all cases of transfer of an off-highway motorcycle or all-purpose vehicle, the application for certificate of title shall be filed within thirty days after the later of the date of purchase or assignment of ownership of the off-highway motorcycle or all-purpose vehicle. If the application for certificate of title is not filed within thirty days after the later of the date of purchase or assignment of ownership of the off-highway motorcycle or all-purpose vehicle, the clerk shall charge a late filing fee of five dollars in addition to the fee prescribed by section 4519.59 of the

Revised Code. The clerk shall retain the entire amount of each late filing fee.

Except in the case of an off-highway motorcycle or all-purpose vehicle purchased prior to July 1, 1999, the clerk shall refuse to accept an application for certificate of title unless the applicant either tenders with the application payment of all taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code based on the purchaser's county of residence, or submits either of the following:

(A) A receipt issued by the tax commissioner or a clerk of courts showing payment of the tax;

(B) An exemption certificate, in any form prescribed by the tax commissioner, that specifies why the purchase is not subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code.

Payment of the tax shall be made in accordance with division (E) of section 4505.06 of the Revised Code and any rules issued by the tax commissioner. When a dealer submits payment of the tax to the clerk, the dealer shall retain any discount to which the dealer is entitled under section 5739.12 of the Revised Code. The clerk shall issue a receipt in the form prescribed by the tax commissioner to any applicant who tenders payment of the tax with the application for a certificate of title. If the application for a certificate of title is for an off-highway motorcycle or all-purpose vehicle purchased prior to July 1, 1999, the clerk shall accept the application without payment of the taxes levied by or pursuant to Chapter 5739. or 5741. of the Revised Code or presentation of either of the items listed in division (A) or (B) of this section.

For receiving and disbursing such taxes paid to the clerk by a resident of the clerk's county, the clerk may retain a poundage fee of one and one-hundredth per cent of the taxes collected, which shall be paid into the certificate of title administration fund created by section 325.33 of the Revised Code. The clerk shall not retain a poundage fee from payments of taxes by persons who do not reside in the clerk's county.

A clerk, however, may retain from the taxes paid to the clerk an amount equal to the poundage fees associated with certificates of title issued by other clerks of courts of common pleas to applicants who reside in the first clerk's county. The registrar, in consultation with the tax commissioner and the clerks of the courts of common pleas, shall develop a report from the automated title processing system that informs each clerk of the amount of the poundage fees that the clerk is permitted to retain from those taxes because of certificates of title issued by the clerks of other counties to applicants who reside in the first clerk's county.

In the case of casual sales of off-highway motorcycles or all-purpose vehicles that are subject to the tax imposed by Chapter 5739. or 5741. of the Revised Code, the purchase price for the purpose of determining the tax shall be the purchase price on an affidavit executed and filed with the clerk by the seller on a form to be prescribed by the registrar, which shall be prima-facie evidence of the price for the determination of the tax.

In addition to the information required by section 4519.57 of the Revised Code, each certificate of title shall contain in bold lettering the following notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by law to state the true selling price. A false statement is in violation of section 2921.13 of the Revised Code and is punishable by six months imprisonment or a fine of up to one thousand dollars, or both. All transfers are audited by the department of taxation. The seller and buyer must provide any information requested by the department of taxation. The buyer may be assessed any additional tax found to be due."

The clerk shall forward all payments of taxes, less poundage fees, to the treasurer of state in a manner to be prescribed by the tax commissioner and shall furnish information to the commissioner as the commissioner may require.

Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of certificates of title for off-highway motorcycles and all-purpose vehicles that are described in the Revised Code as being accomplished by electronic means.

Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department.

Applications shall be filed with the director of transportation during the month of January; annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this state, if such aircraft is acquired or becomes subject to such license tax subsequent to the last day of January in any year, shall be made for the balance of the year in which the same is acquired, within forty-eight hours after such acquisition or after becoming subject to such license tax. Each such application shall be accompanied by the proper license tax, ~~which shall be at the following rates: For, for~~ aircraft other than gliders, ~~listed by the manufacturer thereof as having a maximum seating capacity of either one or~~

~~two persons, six dollars annually; three persons, eight dollars annually; four persons, twelve dollars annually; five persons, fifteen dollars annually; over five persons, fifteen dollars plus five dollars for each person in excess thereof, annually; and shall be at the annual rate of one hundred dollars per aircraft. The license tax for gliders, shall be three dollars annually.~~

Such taxes are in lieu of all other taxes on or with respect to ownership of such aircraft.

Sec. 4561.21. (A) The director of transportation shall deposit all ~~license taxes and~~ transfer fees in the state treasury to the credit of the general fund.

(B) The director shall deposit all license taxes in the state treasury to the credit of the county airport maintenance assistance fund, which is hereby created. Money in the fund shall be used to assist counties in maintaining the airports they own, and the director shall distribute the money to counties in accordance with such procedures, guidelines, and criteria as the director shall establish.

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as auction companies under former section 4707.071 of the Revised Code shall comply with all provisions of this chapter that are applicable to auctioneers except as provided in divisions (B) and (C) of this section. Such persons, however, do not have to serve an apprenticeship or attend a course of study under section 4707.09 of the Revised Code or submit to an examination under section 4707.08 of the Revised Code as long as they do not engage in the calling for, recognition of, and the acceptance of, offers for the purchase of personal property at auction and do not conduct auctions at any location other than the definite place of business required in section 4707.14 of the Revised Code.

(B) The principal owner of each auction company ~~which that~~ is licensed as of May 1, 1991, who pays the annual renewal fee specified in division ~~(A)~~(B) of section 4707.10 of the Revised Code during the first renewal period following May 1, 1991, shall be issued a special auctioneer's license, for the sale of personal property subject to division (A) of this section. Each principal owner shall apply for an annual license. In applying for an annual license, each person licensed as an auction company on May 1, 1991, shall designate an individual as principal owner by submitting documentation substantiating that the individual is in fact the principal owner and shall identify a definite place of business as required in section 4707.14 of the Revised Code. A person licensed as an auctioneer shall not be entitled to a special auctioneer's license.

(C) A special auctioneer's license issued under this section to the principal owner of a former auction company does not entitle the principal

owner or former auction company to conduct auctions at any location other than the definite place of business required in section 4707.14 of the Revised Code. Notwithstanding section 4707.10 of the Revised Code, the department of agriculture shall not issue a new special auctioneer's license if the definite place of business identified by the licensee in the licensee's initial application for a special auctioneer license has changed or if the name under which the licensee is doing business has changed. No person other than an owner, officer, member, or agent of the former auction company who personally has passed the examination prescribed in section 4707.08 of the Revised Code and been licensed as an auctioneer shall engage in the calling for, recognition of, and the acceptance of, offers for the purchase of real or personal property, goods, or chattels at auction in connection with a former auction company that has been issued a special auctioneer's license.

(D) A person licensed as a special auctioneer shall not engage in the sale of real property at auction.

Sec. 4707.072. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing the fee that a license applicant must pay. Until those rules are adopted, a license applicant shall pay the fee established in this section.

(B) The department of agriculture may grant one-auction licenses to any nonresident person deemed qualified by the department. Any person who applies for a one-auction license shall attest, on forms provided by the department, and furnish to the department, satisfactory proof that the license applicant or any auctioneer affiliated with the applicant meets the following requirements:

(A)(1) Has a good reputation;

(B)(2) Is of trustworthy character;

(C)(3) Has attained the age of at least eighteen years;

(D)(4) Has a general knowledge of the requirements of the Revised Code relative to auctioneers, the auction profession, and the principles involved in conducting an auction;

(E)(5) Has two years of professional auctioneering experience immediately preceding the date of application and the experience includes the personal conduct by the applicant of at least twelve auction sales in any state, or has met the requirements of section 4707.12 of the Revised Code;

(F)(6) Has paid a fee of one hundred dollars, ~~which shall be credited to the auctioneers fund;~~

(G)(7) Has provided proof of financial responsibility ~~as required under section 4707.11 of the Revised Code~~ in the form of either an irrevocable

letter of credit or a cash bond or a surety bond in the amount of fifty thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state. A bond shall be made to the department and shall be conditioned that the applicant shall comply with this chapter and rules adopted under it, including refraining from conduct described in section 4707.15 of the Revised Code. All bonds shall be on a form approved by the director of agriculture.

Sec. 4707.10. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing fees that licensees must pay and license renewal deadlines and procedures with which licensees must comply. Until those rules are adopted, licensees shall pay the fees and comply with the license renewal deadlines and procedures established in this section.

(B) The fee for each auctioneer's, apprentice auctioneer's, or special auctioneer's license issued by the department of agriculture is one hundred dollars, and the annual renewal fee for any such license is one hundred dollars. All licenses expire annually on the last day of June of each year and shall be renewed according to the standard renewal procedures of Chapter 4745. of the Revised Code, or the procedures of this section. Any licensee under this chapter who wishes to renew the licensee's license, but fails to do so before the first day of July shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless before the first day of September of the year of expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

~~(B)~~(C) Any person who fails to renew the person's license before the first day of July is prohibited from engaging in any activity specified or comprehended in section 4707.01 of the Revised Code until such time as the person's license is renewed or a new license is issued. Renewal of a license between the first day of July and the first day of September does not relieve any person from complying with this division. The department may refuse to renew the license of or issue a new license to any person who violates this division.

~~(C)~~(D) The department shall prepare and deliver to each licensee a permanent license certificate and an ~~annual renewal~~ identification card, the appropriate portion of which shall be carried on the person of the licensee at all times when engaged in any type of auction activity, and part of which shall be posted with the permanent certificate in a conspicuous location at the licensee's place of business.

~~(D)~~(E) Notice in writing shall be given to the department by each auctioneer or apprentice auctioneer licensee of any change of principal business location or any change or addition to the name or names under which business is conducted, whereupon the department shall issue a new license for the unexpired period. Any change of business location or change or addition of names without notification to the department shall automatically cancel any license previously issued. For each new auctioneer or apprentice auctioneer license issued upon the occasion of a change in business location or a change in or an addition of names under which business is conducted, the department may collect a fee of ten dollars for each change in location, or name or each added name unless the notification of the change occurs concurrently with the renewal application.

Sec. 4707.24. Except for the purposes of divisions (A) and (B) of section 4707.25 of the Revised Code, sections 4707.25 to 4707.31 of the Revised Code do not apply with respect to a license issued under section 4707.072 of the Revised Code.

Sec. 4709.12. (A) The barber board shall charge and collect the following fees:

(1) For the application to take the barber examination, ~~sixty~~ ninety dollars;

(2) For an application to retake any part of the barber examination, ~~thirty~~ forty-five dollars;

(3) For the initial issuance of a license to practice as a barber, ~~twenty~~ thirty dollars;

(4) For the biennial renewal of the license to practice as a barber, ~~seventy-five~~ one hundred ten dollars;

(5) For the restoration of an expired barber license, one hundred dollars, and ~~fifty~~ seventy-five dollars for each lapsed year, provided that the total fee shall not exceed ~~four~~ six hundred ~~sixty~~ ninety dollars;

(6) For the issuance of a duplicate barber or shop license, ~~thirty~~ forty-five dollars;

(7) For the inspection of a new barber shop, change of ownership, or reopening of premises or facilities formerly operated as a barber shop, and issuance of a shop license, ~~seventy-five~~ one hundred ten dollars;

(8) For the biennial renewal of a barber shop license, ~~fifty~~ seventy-five dollars;

(9) For the restoration of a barber shop license, ~~seventy-five~~ one hundred ten dollars;

(10) For each inspection of premises for location of a new barber school, or each inspection of premises for relocation of a currently licensed

barber school, ~~five~~ seven hundred fifty dollars;

(11) For the initial barber school license, ~~five hundred one thousand~~ dollars, and ~~five hundred one thousand~~ dollars for the renewal of the license;

(12) For the restoration of a barber school license, ~~six hundred one thousand~~ dollars;

(13) For the issuance of a student registration, ~~twenty-five~~ forty dollars;

(14) For the examination and issuance of a biennial teacher ~~or assistant teacher~~ license, one hundred ~~twenty-five~~ eighty-five dollars;

(15) For the renewal of a biennial teacher ~~or assistant teacher~~ license, one hundred fifty dollars;

(16) For the restoration of an expired teacher ~~or assistant teacher~~ license, ~~one two~~ hundred ~~fifty~~ twenty-five dollars, and ~~forty~~ sixty dollars for each lapsed year, provided that the total fee shall not exceed ~~three~~ four hundred fifty dollars;

(17) For the issuance of a barber license by reciprocity pursuant to section 4709.08 of the Revised Code, ~~two~~ three hundred dollars;

(18) For providing licensure information concerning an applicant, upon written request of the applicant, ~~twenty-five~~ forty dollars.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that the fees do not exceed the amounts permitted by this section by more than fifty per cent.

Sec. 4717.07. (A) The board of embalmers and funeral directors shall charge and collect the following fees:

(1) For the initial issuance or biennial renewal of an ~~initial~~ embalmer's or funeral director's license, ~~five one hundred forty~~ dollars;

(2) For the issuance of an embalmer or funeral director registration, twenty-five dollars;

(3) For filing an embalmer or funeral director certificate of apprenticeship, ten dollars;

(4) For the application to take the examination for a license to practice as an embalmer or funeral director, or to retake a section of the examination, thirty-five dollars;

(5) ~~For the biennial renewal of an embalmer's or funeral director's license, one hundred twenty dollars;~~

(6) For the initial issuance of a license to operate a funeral home, ~~one two~~ hundred ~~twenty-five~~ fifty dollars and biennial renewal of a license to operate a funeral home, two hundred fifty dollars;

(7)(6) For the reinstatement of a lapsed embalmer's or funeral director's license, the renewal fee prescribed in division (A)(5) of this section plus

fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

~~(8)~~(7) For the reinstatement of a lapsed license to operate a funeral home, the renewal fee prescribed in division (A)(6) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

~~(9)~~(8) For the initial issuance of a license to operate an embalming facility, ~~one~~ two hundred dollars and biennial renewal of a license to operate an embalming facility, two hundred dollars;

~~(10)~~(9) For the reinstatement of a lapsed license to operate an embalming facility, the renewal fee prescribed in division (A)(9) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

~~(11)~~(10) For the initial issuance of a license to operate a crematory facility, ~~one~~ two hundred dollars and biennial renewal of a license to operate a crematory facility, two hundred dollars;

~~(12)~~(11) For the reinstatement of a lapsed license to operate a crematory facility, the renewal fee prescribed in division (A)(11) of this section plus fifty dollars for each month or portion of a month the license is lapsed until reinstatement;

~~(13)~~(12) For the issuance of a duplicate of a license issued under this chapter, four dollars.

(B) In addition to the fees set forth in division (A) of this section, an applicant shall pay the examination fee assessed by any examining agency the board uses for any section of an examination required under this chapter.

(C) Subject to the approval of the controlling board, the board of embalmers and funeral directors may establish fees in excess of the amounts set forth in this section, provided that these fees do not exceed the amounts set forth in this section by more than fifty per cent.

Sec. 4717.09. (A) Every two years, licensed embalmers and funeral directors shall attend between twelve and thirty hours of educational programs as a condition for renewal of their licenses. The board of embalmers and funeral directors shall adopt rules governing the administration and enforcement of the continuing education requirements of this section. The board may contract with a professional organization or association or other third party to assist it in performing functions necessary to administer and enforce the continuing education requirements of this section. A professional organization or association or other third party with whom the board so contracts may charge a reasonable fee for performing these functions to licensees or to the persons who provide continuing

education programs.

(B) A person holding both an embalmer's license and a funeral director's license need meet only the continuing education requirements established by the board for one or the other of those licenses in order to satisfy the requirement of division (A) of this section.

(C) The board shall not renew the license of a licensee who fails to meet the continuing education requirements of this section and who has not been granted a waiver or exemption under division (D) or (E) of this section.

(D) Any licensee who fails to meet the continuing education requirements of this section because of undue hardship or disability, or who is not actively engaged in the practice of funeral directing or embalming in this state, may apply to the board for a waiver or an exemption. ~~The~~

(E) A licensee who has been an embalmer or a funeral director for not less than fifty years and is not actually in charge of an embalming facility or a manager or actually in charge of and ultimately responsible for a funeral home may apply to the board for an exemption.

(F) The board shall determine, by rule, the procedures for applying for a waiver or an exemption from continuing education requirements under this section and under what conditions a waiver or an exemption may be granted.

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to

the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

(5) "Purchaser" means a person that is solicited to become or does become financially obligated as a result of a telephone solicitation.

(6) "Salesperson" means an individual who is employed, appointed, or authorized by a telephone solicitor to make telephone solicitations but does not mean any of the following:

(a) An individual who comes within one of the exemptions in division (B) of this section;

(b) An individual employed, appointed, or authorized by a person who comes within one of the exemptions in division (B) of this section;

(c) An individual under a written contract with a person who comes within one of the exemptions in division (B) of this section, if liability for all transactions with purchasers is assumed by the person so exempted.

(7) "Telephone solicitation" means a communication to a person that meets both of the following criteria:

(a) The communication is initiated by or on behalf of a telephone solicitor or by a salesperson.

(b) The communication either represents a price or the quality or availability of goods or services or is used to induce the person to purchase goods or services, including, but not limited to, inducement through the offering of a gift, award, or prize.

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

(B) A telephone solicitor is exempt from the provisions of sections 4719.02 to 4719.18 and section 4719.99 of the Revised Code if the

telephone solicitor is any one of the following:

(1) A person engaging in a telephone solicitation that is a one-time or infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

(2) A person engaged in telephone solicitation solely for religious or political purposes; a charitable organization, fund-raising counsel, or professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; or any person or other entity exempt under section 1716.03 of the Revised Code from filing a registration statement under section 1716.02 of the Revised Code;

(3) A person, making a telephone solicitation involving a home solicitation sale as defined in section 1345.21 of the Revised Code, that makes the sales presentation and completes the sale at a later, face-to-face meeting between the seller and the purchaser rather than during the telephone solicitation. However, if the person, following the telephone solicitation, causes another person to collect the payment of any money, this exemption does not apply.

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B)(4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5)(a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B)(5)(a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6)(a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 78l, and is registered or is exempt from registration under 15 U.S.C.A. 78l(g)(2)(A), (B), (C), (E), (F), (G), or (H);

(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).

(b) An issuer, or its subsidiary, that formerly had a class of securities that met the criteria set forth in division (B)(6)(a) of this section if the issuer, or its subsidiary, has a net worth in excess of one hundred million dollars, files or its parent files with the securities and exchange commission an S.E.C. form 10-K, and has continued in substantially the same business since it had a class of securities that met the criteria in division (B)(6)(a) of this section. As used in division (B)(6)(b) of this section, "issuer" and "subsidiary" include the successor to an issuer or subsidiary.

(7) A person soliciting a transaction regulated by the commodity futures trading commission, if the person is registered or temporarily registered for that activity with the commission under 7 U.S.C.A. 1 et. seq. and the registration or temporary registration has not expired or been suspended or revoked;

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

(9) A supervised financial institution or its subsidiary. As used in division (B)(9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c)(2)(F) of the "Bank Holding Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an official or agency of the United States, this state, or any other state of the United States; or a licensee or registrant under sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 1321.83 of the Revised Code.

(10)(a) An insurance company, association, or other organization that is licensed or authorized to conduct business in this state by the superintendent of insurance pursuant to Title XXXIX of the Revised Code or Chapter 1751.

of the Revised Code, when soliciting within the scope of its license or authorization.

(b) A licensed insurance broker, agent, or solicitor when soliciting within the scope of the person's license. As used in division (B)(10)(b) of this section, "licensed insurance broker, agent, or solicitor" means any person licensed as an insurance broker, agent, or solicitor by the superintendent of insurance pursuant to Title XXXIX of the Revised Code.

(11) A person soliciting the sale of services provided by a cable television system operating under authority of a governmental franchise or permit;

(12) A person soliciting a business-to-business sale under which any of the following conditions are met:

(a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.

(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:

(a) It includes all of the following:

(i) The business address of the seller;

(ii) A written description or illustration of each good or service offered for sale;

(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy;

(b) One of the following applies:

(i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand

households;

(ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.

(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;

(15) A college or university or any other public or private institution of higher education in this state;

(16) A public utility as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, if the utility or supplier is subject to regulation by the public utilities commission, or the affiliate of the utility or supplier;

~~(17) A travel agency or tour promoter that is registered in compliance with section 1333.96 of the Revised Code when soliciting within the scope of the agency's or promoter's registration;~~

~~(18)~~ A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

~~(19)~~(18)(a) A person that, for at least one year, has been operating a retail business under the same name as that used in connection with telephone solicitation and both of the following occur on a continuing basis:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises.

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.

(b) An affiliate of a person that meets the requirements in division ~~(B)(19)~~(B)(18)(a) of this section if the affiliate meets all of the following

requirements:

(i) The affiliate has operated a retail business for a period of less than one year;

(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;

(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.

(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:

(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises;

(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310.

~~(20)~~(19) A person who performs telephone solicitation sales services on behalf of other persons and to whom one of the following applies:

(a) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least seventy-five per cent of its gross revenues from written telephone solicitation contracts with persons who come within one of the exemptions in division (B) of this section.

(b) The person is an affiliate of one or more exempt persons and makes telephone solicitations on behalf of only the exempt persons of which it is an affiliate.

(c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

(d) The person performs telephone solicitation for religious or political purposes, a charitable organization, a fund-raising council, or a professional solicitor in compliance with the registration and reporting requirements of Chapter 1716. of the Revised Code; and meets all of the following requirements:

(i) The person has operated under the same ownership, control, and business name for at least five years, and the person receives at least fifty-one per cent of its gross revenues from written telephone solicitation contracts with persons who come within the exemption in division (B)(2) of this section;

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity; and

(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

~~(21)~~(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;

~~(22)~~(21)(a) Either of the following:

(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.

(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. Part 310, as adopted by the federal trade commission.

(b) As used in division (B)~~(22)~~(21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.

~~(23)~~(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.

~~(24)~~(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

~~(25)~~(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.11 of the Revised Code.

~~(26)~~(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;

(c) The person does not conduct a prize promotion or offer the sale of an investment opportunity;

(d) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310;

(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;

(f) Neither the person nor any of its principals has had entered against them an injunction or a final judgment or order, including an agreed judgment or order, an assurance of voluntary compliance, or any similar instrument, in any civil or administrative action involving engaging in a pattern of corrupt practices, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; the use of any untrue, deceptive, or misleading representation; or the use of any unfair, unlawful, deceptive, or unconscionable trade act or practice.

~~(27)~~(26) An institution defined as a home health agency in section ~~3701.88~~ 3701.881 of the Revised Code, that conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the

telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310, and engages in telephone solicitation only within the scope of the institution's certification, accreditation, contract with the department of aging, or status as a home health agency; and that meets one of the following requirements:

(a) The institution is certified as a provider of home health services under Title XVIII of the Social Security Act, 49 Stat. 620, 42 U.S.C. 301, as amended; ~~and is registered with the department of health pursuant to division (B) of section 3701.88 of the Revised Code;~~

(b) The institution is accredited by either the joint commission on accreditation of health care organizations or the community health accreditation program;

(c) The institution is providing passport services under the direction of the Ohio department of aging under section 173.40 of the Revised Code;

(d) An affiliate of an institution that meets the requirements of division (B)(~~27~~)(26)(a), (b), or (c) of this section when offering for sale substantially the same goods and services as those that are offered by the institution that meets the requirements of division (B)(~~27~~)(26)(a), (b), or (c) of this section.

(~~28~~)(27) A person licensed to provide a hospice care program by the department of health pursuant to section 3712.04 of the Revised Code when conducting telephone solicitations within the scope of the person's license and according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.

Sec. 4723.01. As used in this chapter:

(A) "Registered nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a registered nurse.

(B) "Practice of nursing as a registered nurse" means providing to individuals and groups nursing care requiring specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes:

(1) Identifying patterns of human responses to actual or potential health problems amenable to a nursing regimen;

(2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;

(3) Assessing health status for the purpose of providing nursing care;

(4) Providing health counseling and health teaching;

(5) Administering medications, treatments, and executing regimens authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice;

(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.

(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.

(D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the purpose of providing nursing care.

(E) "Licensed practical nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a licensed practical nurse.

(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, chiropractor, or registered nurse. Such nursing care includes:

(1) Observation, patient teaching, and care in a diversity of health care settings;

(2) Contributions to the planning, implementation, and evaluation of nursing;

(3) Administration of medications and treatments authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.

(4) Administration to an adult of intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, on the condition that the licensed practical nurse is authorized under section 4723.17 or 4723.171 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with those sections.

(G) "Certified registered nurse anesthetist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(H) "Clinical nurse specialist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a clinical nurse specialist in accordance with section

4723.43 of the Revised Code and rules adopted by the board of nursing.

(I) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse-midwife in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(J) "Certified nurse practitioner" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse practitioner in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(K) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(L) "Collaboration" or "collaborating" means the following:

(1) In the case of a clinical nurse specialist, except as provided in division (L)(3) of this section, or a certified nurse practitioner, that one or more podiatrists acting within the scope of practice of podiatry in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or one or more physicians with whom the nurse has entered into a standard care arrangement are continuously available to communicate with the clinical nurse specialist or certified nurse practitioner either in person or by radio, telephone, or other form of telecommunication;

(2) In the case of a certified nurse-midwife, that one or more physicians with whom the certified nurse-midwife has entered into a standard care arrangement are continuously available to communicate with the certified nurse-midwife either in person or by radio, telephone, or other form of telecommunication;

(3) In the case of a clinical nurse specialist who practices the nursing specialty of mental health or psychiatric mental health without being authorized to prescribe drugs and therapeutic devices, that one or more physicians are continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(M) "Supervision," as it pertains to a certified registered nurse anesthetist, means that the certified registered nurse anesthetist is under the direction of a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code, a dentist acting within the dentist's scope of practice in accordance with Chapter 4715. of the Revised Code, or a physician, and, when administering anesthesia, the certified registered nurse anesthetist is in the immediate presence of the

podiatrist, dentist, or physician.

(N) "Standard care arrangement," except as it pertains to an advanced practice nurse, means a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians or podiatrists and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

(O) "Advanced practice nurse," until three years and eight months after May 17, 2000, means a registered nurse who is approved by the board of nursing under section 4723.55 of the Revised Code to practice as an advanced practice nurse.

(P) "Dialysis care" means the care and procedures that a dialysis technician is authorized to provide and perform, as specified in section 4723.72 of the Revised Code.

(Q) "Dialysis technician" means an individual who holds a current, valid certificate or temporary certificate issued under this chapter that authorizes the individual to practice as a dialysis technician in accordance with section 4723.72 of the Revised Code.

(R) "Certified community health worker" means an individual who holds a current, valid certificate as a community health worker issued by the board of nursing under section 4723.85 of the Revised Code.

Sec. 4723.06. (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules adopted under this chapter;

(2) Develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(3) Issue and renew nursing licenses ~~and~~ dialysis technician certificates, and community health worker certificates, as provided in this chapter;

(4) Define the minimum curricula and standards for educational programs of the schools of professional nursing and schools of practical nursing in this state;

(5) Survey, inspect, and grant full approval to prelicensure nursing education programs that meet the standards established by rules adopted under section 4723.07 of the Revised Code. Prelicensure nursing education programs include, but are not limited to, associate degree, baccalaureate degree, diploma, and doctor of nursing programs leading to initial licensure to practice nursing as a registered nurse and practical nurse programs

leading to initial licensure to practice nursing as a licensed practical nurse.

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at its first meeting after the first class has completed the program, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. At the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing nursing education programs and courses under standards established in rules adopted under section 4723.07 of the Revised Code;

(9) Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses ~~and~~, for dialysis technicians, and for certified community health workers;

(10) Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;

(11) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;

(12) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(13) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(14) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.485 of the Revised Code;

(15) Grant approval to the planned classroom and clinical study required by section 4723.483 of the Revised Code to be eligible for a certificate to prescribe;

(16) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;

(17) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;

(18) Make an annual report to the governor, which shall be open for public inspection;

(19) Maintain and have open for public inspection the following records:

(a) A record of all its meetings and proceedings;

(b) A file of holders of nursing licenses, registrations, and certificates granted under this chapter ~~and~~; dialysis technician certificates granted under this chapter; and community health worker certificates granted under this chapter. The file shall be maintained in the form prescribed by rule of the board.

(c) A list of prelicensure nursing education programs approved by the board;

(d) A list of approved peer support programs for nurses ~~and~~, dialysis technicians, and certified community health workers.

(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing nursing education programs and courses. Persons so authorized shall approve continuing nursing education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing nursing education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing nursing education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted

under section ~~4732.07~~ 4723.07 of the Revised Code.

In addition to approving continuing nursing education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules pertaining to the practice of nursing in this state.

Sec. 4723.063. (A) As used in this section:

(1) "Health care facility" means:

(a) A hospital registered under section 3701.07 of the Revised Code;

(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

(f) An ambulatory surgical facility;

(g) A freestanding cardiac catheterization facility;

(h) A freestanding birthing center;

(i) A freestanding or mobile diagnostic imaging center;

(j) A freestanding radiation therapy center.

(2) "Nurse education program" means a prelicensure nurse education program approved by the board of nursing under section 4723.06 of the Revised Code or a postlicensure nurse education program approved by the board of regents under section 3333.04 of the Revised Code.

(B) The state board of nursing shall establish and administer the nurse education grant program. Under the program, the board shall award grants to nurse education programs that have partnerships with other education programs, community health agencies, or health care facilities. Grant recipients shall use the money to fund partnerships to increase the nurse education program's enrollment capacity. Methods of increasing a program's enrollment capacity may include hiring faculty and preceptors, purchasing educational equipment and materials, and other actions acceptable to the board. Grant money shall not be used to construct or renovate buildings. Partnerships may be developed between one or more nurse education programs and one or more health care facilities.

In awarding grants, the board shall give preference to partnerships between nurse education programs and hospitals, nursing homes, and county homes or county nursing homes, but may also award grants to fund partnerships between nurse education programs and other health care

facilities.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

(1) Eligibility requirements for receipt of a grant;

(2) Grant application forms and procedures;

(3) The amounts in which grants may be made and the total amount that may be awarded to a nurse education program that has a partnership with other education programs, a community health agency, or a health care facility;

(4) A method whereby the board may evaluate the effectiveness of a partnership between joint recipients in increasing the nurse education program's enrollment capacity;

(5) The percentage of the money in the fund that must remain in the fund at all times to maintain a fiscally responsible fund balance;

(6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;

(7) Any other matters incidental to the operation of the program.

(D) From January 1, 2004, until December 31, 2013, the ten dollars of each biennial nursing license renewal fee collected under section 4723.08 of the Revised Code shall be dedicated to the nurse education grant program fund, which is hereby created in the state treasury. The board shall use money in the fund for grants awarded under division (A) of this section and for expenses of administering the grant program. The amount used for administrative expenses in any year shall not exceed ten per cent of the amount transferred to the fund in that year.

(E) Each quarter, for the purposes of transferring funds to the nurse education grant program, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times ten dollars.

(F) Notwithstanding the requirements of section 4743.05 of the Revised Code, from January 1, 2004, until December 31, 2013, at the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education grant program fund the amount certified under division (E) of this section.

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) Provisions for the board's government and control of its actions and

business affairs;

(B) Minimum curricula and standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs;

(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;

(E) Standards for approval of continuing nursing education programs and courses for registered nurses, licensed practical nurses, certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.

(F) Standards that persons must meet to be authorized by the board to approve continuing nursing education programs and courses and a schedule by which that authorization expires and may be renewed;

(G) Requirements, including continuing education requirements, for restoring inactive nursing licenses ~~and~~, dialysis technician certificates, and community health worker certificates, and for restoring nursing licenses ~~and~~, dialysis technician certificates, and community health worker certificates that have lapsed through failure to renew;

(H) Conditions that may be imposed for reinstatement of a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate following action taken under ~~sections~~ section 3123.47, 4723.28, ~~and 4723.281, or 4723.86~~ of the Revised Code resulting in a license or certificate suspension ~~from practice~~;

(I) Standards for approval of peer support programs for persons who hold a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate;

(J) Requirements for board approval of courses in medication administration by licensed practical nurses;

(K) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse or licensed practical nurse, a certificate of authority issued under division (E) of section 4723.41 of the Revised Code, ~~or a dialysis technician certificate, or a community health worker certificate~~ by the board's endorsement of the applicant's authority to

practice issued by the licensing agency of another state;

(L) Universal blood and body fluid precautions that shall be used by each person holding a nursing license or dialysis technician certificate issued under this chapter who performs exposure-prone invasive procedures. The rules shall define and establish requirements for universal blood and body fluid precautions that include the following:

- (1) Appropriate use of hand washing;
- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;
- (4) Wearing and disposal of gloves and other protective garments and devices.

(M) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;

(N) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(O) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

(P) Continuing education standards for clinical nurse specialists who are exempt under division (C) of section 4723.41 of the Revised Code from the requirement of having passed a certification examination;

(Q) For purposes of division (B)(31) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient.

The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:

(1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, ~~fifty~~ seventy-five dollars;

(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, ~~fifty~~ seventy-five dollars;

(3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;

(4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(5) For application for a full dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(6) For application for a certificate to prescribe, fifty dollars;

(7) For verification of a nursing license, certificate of authority, or dialysis technician certificate to another jurisdiction, fifteen dollars;

(8) For providing a replacement copy of a nursing license, certificate of authority, ~~or certificate to prescribe~~, dialysis technician certificate, ~~fifteen intravenous therapy card, or frameable certificate~~, twenty-five dollars;

(9) For biennial renewal of a nursing license that expires on or ~~before~~ after August 31, 2003, ~~thirty-five~~ but before January 1, 2004, forty-five dollars;

(10) For biennial renewal of a nursing license that expires on or after ~~September 1, 2003, forty-five~~ January 1, 2004, sixty-five dollars;

(11) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse mid-wife, or certified nurse practitioner that expires on or before August 31, 2005, one hundred dollars;

(12) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner that expires on or after September 1, 2005, eighty-five dollars;

(13) For renewal of a certificate to prescribe, fifty dollars;

(14) For biennial renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(15) For processing a late application for renewal of a nursing license, certificate of authority, or dialysis technician certificate, fifty dollars;

(16) For application for authorization to approve continuing nursing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

(17) For application for authorization to approve continuing nursing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

(18) For each year for which authorization to approve continuing nursing education programs and courses is renewed, one hundred fifty dollars;

(19) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised

Code;

(20) For reinstatement of a lapsed nursing license, certificate of authority, or dialysis technician certificate, one hundred dollars;

(21) For written verification of a nursing license, certificate of authority, or dialysis technician certificate, when the verification is performed for purposes other than providing verification to another jurisdiction, five dollars. ~~The board may contract for services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.;~~

(22) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;

(23) For issuance of an intravenous therapy card for which a fee may be charged under section 4723.17 of the Revised Code, twenty-five dollars;

(24) For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars;

(25) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of certificates to community health workers, including fees for application for a certificate, verification of a certificate to another jurisdiction, written verification of a certificate when the verification is performed for purposes other than verification to another jurisdiction, providing a replacement copy of a certificate, biennial renewal of a certificate, processing a late application for renewal of a certificate, reinstatement of a lapsed certificate, application for approval of a community health worker training program for community health workers, and biennial renewal of the approval of a training program for community health workers.

(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity.

(D) The board may contract for services pertaining to the process of providing written verification of a nursing license, certificate of authority, dialysis technician certificate, or community health worker certificate when the verification is performed for purposes other than providing verification to another jurisdiction. The contract may include provisions pertaining to the

collection of the fee charged for providing the written verification. As part of these provisions, the board may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

Sec. 4723.082. ~~All~~ (A) Except as provided in section 4723.062 of the Revised Code and division (B) of this section, all receipts of the board of nursing, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. ~~All~~

(B) All receipts from board-sponsored continuing education activities shall be deposited in the state treasury to the credit of the special nursing issue fund created by section 4723.062 of the Revised Code.

(C) All vouchers of the board shall be approved by the board president or executive director, or both, as authorized by the board.

Sec. 4723.17. (A) The board of nursing may authorize a licensed practical nurse to administer to an adult intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, if ~~all of the following are true of the licensed practical nurse:~~

(1) ~~The nurse~~ has a current, valid license issued under this chapter that includes authorization to administer medications and one of the following is the case:

(1) The nurse has successfully completed, within a practical nurse prelicensure education program approved by the board or by another jurisdiction's agency that regulates the practice of nursing, a course of study that prepares the nurse to safely perform the intravenous therapy procedures the board may authorize under this section. To meet this requirement, the course of study must include all of the following:

(a) Both didactic and clinical components;

(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code;

(c) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.

(2) The nurse has successfully completed a ~~course in intravenous administration approved by the board that includes both of the following:~~

~~(a)~~ A minimum of forty hours of training that includes all of the following:

~~(i)~~(a) The curriculum established by rules adopted by the board and in effect on January 1, 1999;

~~(ii)~~(b) Training in the anatomy and physiology of the cardiovascular

system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;

~~(iii)~~(c) Any other training or instruction the board considers appropriate.

~~(b)~~(d) A testing component that ~~includes the successful performance of three venipunctures supervised by a physician or registered nurse in a health care setting~~ requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.

(B) Except as provided in section 4723.171 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board pursuant to division (A) of this section and only if it is performed in accordance with this section.

A licensed practical nurse authorized by the board to perform intravenous therapy may perform an intravenous therapy procedure only at the direction of one of the following:

(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;

(2) A registered nurse in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section and section 4723.171 of the Revised Code, when a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure at the direction of a registered nurse, the registered nurse or another registered nurse shall be readily available at the site where the intravenous therapy is performed, and before the licensed practical nurse initiates the intravenous therapy, the registered nurse shall personally perform an on-site assessment of the individual who is to receive the intravenous therapy.

(2) When a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure in a home as defined in section 3721.10 of the Revised Code, or in an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code, at the direction of a registered nurse or licensed physician, dentist, optometrist, or podiatrist, a registered nurse shall be on the premises of the home or facility or accessible by some form of telecommunication.

(D) No licensed practical nurse shall perform any of the following intravenous therapy procedures:

(1) Initiating or maintaining any of the following:

(a) Blood or blood components;

(b) Solutions for total parenteral nutrition;

(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;

(d) Solutions administered through any central venous line or arterial line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;

(e) Any investigational or experimental medication.

(2) Initiating intravenous therapy in any vein, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;

(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;

(4) Initiating or discontinuing a peripherally inserted central catheter;

(5) Mixing, preparing, or reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;

(6) Administering medication via the intravenous route, including all of the following activities:

(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may do either of the following:

(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%; normal saline; lactated ringers; sodium chloride .45%; sodium chloride 0.2%; sterile water.

(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution.

(b) Initiating or maintaining an intravenous piggyback infusion, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate or maintain an intravenous piggyback infusion containing an antibiotic additive;

(c) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to, bolus or push.

(7) Aspirating any intravenous line to maintain patency;

(8) Changing tubing on any line including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform intravenous therapy may change tubing on an intravenous line that terminates in a peripheral vein;

(9) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding division (D) of this section, at the direction of a physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis:

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;

(2) The administration of a heparin dose intravenously;

(3) The administration of a heparin dose peripherally via a fistula needle;

(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.

(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse is authorized by the board to perform intravenous therapy.

(G) The board shall issue an intravenous therapy card to the licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy. A fee for issuing the card shall not be charged under section 4723.08 of the Revised Code if the licensed practical nurse receives the card by meeting the requirements of division (A)(1) of this section. The board shall maintain a registry of the names of licensed practical nurses ~~authorized pursuant to division (A) of this section to perform~~ who hold intravenous therapy cards.

Sec. 4723.271. The board of nursing shall provide a replacement copy of a nursing license, certificate of authority, ~~or dialysis technician certificate,~~ or community health worker certificate issued under this chapter upon request of the holder accompanied by proper identification as prescribed in rules adopted by the board and payment of the fee authorized under section 4723.08 of the Revised Code.

Upon request of the holder of a nursing license, certificate of authority, ~~or dialysis technician certificate,~~ or community health worker certificate issued under this chapter and payment of the fee authorized under section 4723.08 of the Revised Code, the board shall verify to an agency of another

jurisdiction or foreign country the fact that the person holds such nursing license, certificate of authority, ~~or~~ dialysis technician certificate, or community health worker certificate.

Sec. 4723.34. (A) Reports to the board of nursing shall be made as follows:

(1) Every employer of registered nurses, licensed practical nurses, or dialysis technicians shall report to the board of nursing the name of any current or former employee who holds a nursing license or dialysis technician certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code. Every employer of certified community health workers shall report to the board the name of any current or former employee who holds a community health worker certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code.

(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code. Community health worker associations shall report to the board the name of any certified community health worker who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.

(3) If the prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, knows or has reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis

technician, the prosecutor shall notify the board of nursing. With regard to certified community health workers, if the prosecutor in a case involving a charge of a misdemeanor committed in the course of employment, a felony charge, or a charge of gross immorality or moral turpitude, including a case dismissed on technical or procedural grounds, knows or has reason to believe that the person charged holds a community health worker certificate issued under this chapter, the prosecutor shall notify the board.

Each notification required by this division shall be made on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action.

(B) If any person fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the registered nurses, licensed practical nurses, ~~and~~ dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following:

(1) Eligibility requirements for admission to and continued participation in the monitoring program;

(2) Terms and conditions that must be met to participate in and

successfully complete the program;

(3) Procedures for keeping confidential records regarding participants;

(4) Any other requirements or procedures necessary to establish and administer the program.

(D)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing ~~or, engaging in the provision of dialysis care, or engaging in the provision of services that were being provided as a certified community health worker.~~

If the program coordinator determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the program coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.

The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 or 4723.86 of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 or 4723.86 of the Revised Code.

(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member for disciplinary matters and the supervising member shall temporarily suspend the participant's license or certificate. The program coordinator shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

(E) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all records in the board's office for a period of five years.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the program coordinator to receive and release information necessary for the coordinator to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the program coordinator to receive and release

information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the program coordinator to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division (E)(4) of this section, all records pertaining to an individual's application for or participation in the monitoring program, including medical records, treatment records, and mental health records, shall be confidential. The records are not public records for the purposes of section 149.43 of the Revised Code and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding.

(4) The program coordinator may disclose information regarding a participant's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In disclosing information under this division, the coordinator shall not include any information that is protected under section 3793.13 of the Revised Code or any federal statute or regulation that provides for the confidentiality of medical, mental health, or substance abuse records.

(F) In the absence of fraud or bad faith, the program coordinator, the board of nursing, and the board's employees and representatives are not liable for damages in any civil action as a result of disclosing information in accordance with division (E)(4) of this section. In the absence of fraud or bad faith, any person reporting to the program with regard to an individual's chemical dependence, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

Sec. 4723.431. (A) Except as provided in division (C)(1) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may practice only in accordance with a standard care arrangement entered into with each physician or podiatrist with whom the nurse collaborates. A copy of the standard care arrangement shall be retained on file at each site where the nurse practices. Prior approval of the standard care arrangement by the board of nursing is not required, but the board may periodically review it for compliance with this section.

A clinical nurse specialist, certified nurse-midwife, or certified nurse

practitioner may enter into a standard care arrangement with one or more collaborating physicians or podiatrists. Each physician or podiatrist must be actively engaged in direct clinical practice in this state and practicing in a specialty that is the same as or similar to the nurse's nursing specialty. If a collaborating physician or podiatrist enters into standard care arrangements with more than three nurses who hold certificates to prescribe issued under section 4723.48 of the Revised Code, the physician or podiatrist shall not collaborate at the same time with more than three of the nurses in the prescribing component of their practices.

(B) A standard care arrangement shall be in writing and, except as provided in division (C)(2) of this section, shall contain all of the following:

(1) Criteria for referral of a patient by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to a collaborating physician or podiatrist;

(2) A process for the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to obtain a consultation with a collaborating physician or podiatrist;

(3) A plan for coverage in instances of emergency or planned absences of either the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner or a collaborating physician or podiatrist that provides the means whereby a physician or podiatrist is available for emergency care;

(4) The process for resolution of disagreements regarding matters of patient management between the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and a collaborating physician or podiatrist;

(5) A procedure for a regular review of the referrals by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to other health care professionals and the care outcomes for a random sample of all patients seen by the nurse;

(6) If the clinical nurse specialist or certified nurse practitioner regularly provides services to infants, a policy for care of infants up to age one and recommendations for collaborating physician visits for children from birth to age three;

(7) Any other criteria required by rule of the board adopted pursuant to section 4723.07 or 4723.50 of the Revised Code.

(C) A standard care arrangement entered into pursuant to this section may permit a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to supervise services provided by a home health agency as defined in section 3701.881 of the Revised Code.

(D)(1) A clinical nurse specialist who does not hold a certificate to

prescribe and whose nursing specialty is mental health or psychiatric mental health, as determined by the board, is not required to enter into a standard care arrangement, but shall practice in collaboration with one or more physicians.

(2) If a clinical nurse specialist practicing in either of the specialties specified in division (C)(1) of this section holds a certificate to prescribe, the nurse shall enter into a standard care arrangement with one or more physicians. The standard care arrangement must meet the requirements of division (B) of this section, but only to the extent necessary to address the prescribing component of the nurse's practice.

~~(D)~~(E) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

Sec. 4723.63. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the board of nursing shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license ~~or~~, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

Sec. 4723.81. The board of nursing shall develop and implement a program for the certification of community health workers. The board shall begin issuing community health worker certificates under section 4723.85 of the Revised Code not later than February 1, 2005.

The certification program shall reflect the board's recognition of individuals who, as community representatives, advocate for individuals and groups in the community by assisting them in accessing community health and supportive resources through the provision of such services as education, role modeling, outreach, home visits, and referrals, any of which may be targeted toward an individual, family, or entire community. The certification program also shall reflect the board's recognition of the individuals as members of the community with a unique perspective of community needs that enables them to develop culturally appropriate solutions to problems and translate the solutions into practice.

The certification program does not require an individual to obtain a community health worker certificate as a means of authorizing the

individual to perform any of the activities that may be performed by an individual who holds a community health worker certificate.

Sec. 4723.82. (A) An individual who holds a current, valid community health worker certificate issued by the board of nursing under section 4723.85 of the Revised Code may use the title "certified community health worker" or "community health worker." When providing services within the community, the certificate holder may represent to the public that the individual is providing the services under either title.

(B)(1) Holding a community health worker certificate does not authorize an individual to administer medications or perform any other activity that requires judgment based on nursing knowledge or expertise. Any activities performed by a certified community health worker that are related to nursing care shall be performed only pursuant to the delegation of a registered nurse acting in accordance with the rules for delegation adopted under this chapter. Any other health-related activities performed by a certified community health worker shall be performed only under the supervision of a health professional acting within the scope of the professional's practice.

Only a registered nurse may supervise a certified community health worker when performing delegated activities related to nursing care. The registered nurse supervising a certified community health worker shall provide the supervision in accordance with the rules for delegation adopted under this chapter and the rules for supervision of community health workers adopted under section 4723.88 of the Revised Code, including the rules limiting the number of certified community health workers who may be supervised at any one time.

(2) A registered nurse who delegates activities to a certified community health worker or supervises a certified community health worker in the performance of delegated activities is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the certified community health worker in performing the activities, if the registered nurse delegates the activities or provides the supervision in accordance with this chapter and the rules adopted under this chapter.

Sec. 4723.83. (A) An individual seeking a community health worker certificate shall submit an application to the board of nursing on forms the board shall prescribe and furnish. The applicant shall include all information the board requires to process the application. The application shall be accompanied by the fee established in rules adopted under section 4723.88 of the Revised Code.

(B) An applicant for a community health worker certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section, and accompanied by the fee prescribed pursuant to division (C)(3) of that section. On receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. The applicant shall ask the superintendent of the bureau of criminal identification and investigation to request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant.

The results of any criminal records check conducted pursuant to a request made under this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:

(1) The results may be made available to any person for use in determining whether the individual who is the subject of the check should be issued a community health worker certificate.

(2) The results may be made available to the individual who is the subject of the check or that individual's representative.

Sec. 4723.84. (A) To be eligible to receive a community health worker certificate, an applicant shall meet all of the following conditions:

(1) Be eighteen years of age or older;

(2) Possess a high school diploma or the equivalent of a high school diploma, as determined by the board;

(3) Except as provided in division (B) of this section, successfully complete a community health worker training program approved by the board under section 4723.87 of the Revised Code;

(4) Have results on the criminal records check requested under section 4723.83 of the Revised Code indicating that the individual has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country;

(5) Meet all other requirements the board specifies in rules adopted

under section 4723.88 of the Revised Code.

(B) In lieu of meeting the condition of completing a community health worker training program, an applicant may be issued a community health worker certificate if the individual was employed in a capacity substantially the same as a community health worker before the board implemented the certification program. To be eligible under this division, an applicant must meet the requirements specified in rules adopted by the board under section 4723.88 of the Revised Code and provide documentation from the employer attesting to the employer's belief that the applicant is competent to perform activities as a certified community health worker.

Sec. 4723.85. (A) The board of nursing shall review all applications received under section 4723.83 of the Revised Code. If an applicant meets the requirements of section 4723.84 of the Revised Code, the board shall issue a community health worker certificate to the applicant.

(B) A community health worker certificate issued under this section expires biennially and may be renewed in accordance with the schedule and procedures established by the board in rules adopted under section 4723.88 of the Revised Code. To be eligible for renewal, an individual must complete the continuing education requirements established by the board in rules adopted under section 4723.88 of the Revised Code and meet all other requirements for renewal, as specified in the board's rules adopted under that section. If an applicant for renewal has successfully completed the continuing education requirements and meets all other requirements for renewal, the board shall issue a renewed community health worker certificate to the applicant.

Sec. 4723.86. The board of nursing, by vote of a quorum, may deny, revoke, or suspend a community health worker certificate. The board may impose one or more of the sanctions against an applicant or certificate holder for any of the reasons it specifies in rules adopted under section 4723.88 of the Revised Code. All actions to impose a sanction shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4723.87. (A) A person or government entity seeking to operate a training program that prepares individuals to become certified community health workers shall submit an application to the board of nursing on forms the board shall prescribe and furnish. The applicant shall include all information the board requires to process the application. The application shall be accompanied by the fee established in rules adopted under section 4723.87 of the Revised Code.

The board shall review all applications received. If an applicant meets the standards for approval established in the board's rules adopted under

section 4723.88 of the Revised Code, the board shall approve the program.

(B) The board's approval of a training program expires biennially and may be renewed in accordance with the schedule and procedures established by the board in rules adopted under section 4723.88 of the Revised Code.

(C) If an approved community health worker training program ceases to meet the standards for approval, the board shall withdraw its approval of the program, refuse to renew its approval of the program, or place the program on provisional approval. In withdrawing or refusing to renew its approval, the board shall act in accordance with Chapter 119. of the Revised Code. In placing a program on provisional approval, the board shall specify the period of time during which the provisional approval is valid. At the end of the period, the board shall reconsider whether the program meets the standards for approval. If the program meets the standards for approval, the board shall reinstate its full approval of the program or renew its approval of the program. If the program does not meet the standards for approval, the board shall proceed by withdrawing or refusing to renew its approval of the program.

Sec. 4723.88. The board of nursing, in accordance with Chapter 119. of the Revised Code, shall adopt rules to administer and enforce sections 4723.81 to 4723.87 of the Revised Code. The rules shall establish all of the following:

(A) Standards and procedures for issuance of community health worker certificates;

(B) Standards for evaluating the competency of an individual who applies to receive a certificate on the basis of having been employed in a capacity substantially the same as a community health worker before the board implemented the certification program;

(C) Standards and procedures for renewal of community health worker certificates, including the continuing education requirements that must be met for renewal;

(D) Standards governing the performance of activities related to nursing care that are delegated by a registered nurse to certified community health workers. In establishing the standards, the board shall specify limits on the number of certified community health workers a registered nurse may supervise at any one time.

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers;

(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are

imposed under section 4723.28 of the Revised Code;

(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum components that must be included in a training program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs.

(H) Standards and procedures for withdrawing the board's approval of a training program, refusing to renew the approval of a training program, and placing a training program on provisional approval;

(I) Amounts for each fee that may be imposed under division (A)(25) of section 4723.08 of the Revised Code;

(J) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code.

Sec. 4729.01. As used in this chapter:

(A) "Pharmacy," except when used in a context that refers to the practice of pharmacy, means any area, room, rooms, place of business, department, or portion of any of the foregoing where the practice of pharmacy is conducted.

(B) "Practice of pharmacy" means providing pharmacist care requiring specialized knowledge, judgment, and skill derived from the principles of biological, chemical, behavioral, social, pharmaceutical, and clinical sciences. As used in this division, "pharmacist care" includes the following:

(1) Interpreting prescriptions;

(2) Compounding or dispensing drugs and dispensing drug therapy related devices;

(3) Counseling individuals with regard to their drug therapy, recommending drug therapy related devices, and assisting in the selection of drugs and appliances for treatment of common diseases and injuries and providing instruction in the proper use of the drugs and appliances;

(4) Performing drug regimen reviews with individuals by discussing all of the drugs that the individual is taking and explaining the interactions of the drugs;

(5) Performing drug utilization reviews with licensed health professionals authorized to prescribe drugs when the pharmacist determines that an individual with a prescription has a drug regimen that warrants additional discussion with the prescriber;

(6) Advising an individual and the health care professionals treating an individual with regard to the individual's drug therapy;

(7) Acting pursuant to a consult agreement with a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, if an agreement has been established with the physician;

(8) Administering ~~by injection~~ the adult immunizations specified in section 4729.41 of the Revised Code, if the pharmacist has met the requirements of that section.

(C) "Compounding" means the preparation, mixing, assembling, packaging, and labeling of one or more drugs in any of the following circumstances:

(1) Pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs;

(2) Pursuant to the modification of a prescription made in accordance with a consult agreement;

(3) As an incident to research, teaching activities, or chemical analysis;

(4) In anticipation of prescription drug orders based on routine, regularly observed dispensing patterns.

(D) "Consult agreement" means an agreement to manage an individual's drug therapy that has been entered into by a pharmacist and a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(E) "Drug" means:

(1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;

(4) Any article intended for use as a component of any article specified in division (C)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories.

(F) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

(a) Under the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without

prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a schedule V controlled substance and that is exempt from Chapter 3719. of the Revised Code or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(G) "Federal drug abuse control laws" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Prescription" means a written, electronic, or oral order for drugs or combinations or mixtures of drugs to be used by a particular individual or for treating a particular animal, issued by a licensed health professional authorized to prescribe drugs.

(I) "Licensed health professional authorized to prescribe drugs" or "prescriber" means an individual who is authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice, including only the following:

(1) A dentist licensed under Chapter 4715. of the Revised Code;

(2) Until January 17, 2000, an advanced practice nurse approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices;

(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

(4) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;

(5) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

(6) A veterinarian licensed under Chapter 4741. of the Revised Code.

(J) "Sale" and "sell" include delivery, transfer, barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal proprietor, agent, or employee.

(K) "Wholesale sale" and "sale at wholesale" mean any sale in which the purpose of the purchaser is to resell the article purchased or received by the purchaser.

(L) "Retail sale" and "sale at retail" mean any sale other than a

wholesale sale or sale at wholesale.

(M) "Retail seller" means any person that sells any dangerous drug to consumers without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration do not constitute control or establish responsibility.

(N) "Price information" means the price charged for a prescription for a particular drug product and, in an easily understandable manner, all of the following:

- (1) The proprietary name of the drug product;
- (2) The established (generic) name of the drug product;
- (3) The strength of the drug product if the product contains a single active ingredient or if the drug product contains more than one active ingredient and a relevant strength can be associated with the product without indicating each active ingredient. The established name and quantity of each active ingredient are required if such a relevant strength cannot be so associated with a drug product containing more than one ingredient.

(4) The dosage form;

(5) The price charged for a specific quantity of the drug product. The stated price shall include all charges to the consumer, including, but not limited to, the cost of the drug product, professional fees, handling fees, if any, and a statement identifying professional services routinely furnished by the pharmacy. Any mailing fees and delivery fees may be stated separately without repetition. The information shall not be false or misleading.

(O) "Wholesale distributor of dangerous drugs" means a person engaged in the sale of dangerous drugs at wholesale and includes any agent or employee of such a person authorized by the person to engage in the sale of dangerous drugs at wholesale.

(P) "Manufacturer of dangerous drugs" means a person, other than a pharmacist, who manufactures dangerous drugs and who is engaged in the sale of those dangerous drugs within this state.

(Q) "Terminal distributor of dangerous drugs" means a person who is engaged in the sale of dangerous drugs at retail, or any person, other than a wholesale distributor or a pharmacist, who has possession, custody, or control of dangerous drugs for any purpose other than for that person's own use and consumption, and includes pharmacies, hospitals, nursing homes, and laboratories and all other persons who procure dangerous drugs for sale or other distribution by or under the supervision of a pharmacist or licensed health professional authorized to prescribe drugs.

(R) "Promote to the public" means disseminating a representation to the public in any manner or by any means, other than by labeling, for the

purpose of inducing, or that is likely to induce, directly or indirectly, the purchase of a dangerous drug at retail.

(S) "Person" includes any individual, partnership, association, limited liability company, or corporation, the state, any political subdivision of the state, and any district, department, or agency of the state or its political subdivisions.

(T) "Finished dosage form" has the same meaning as in section 3715.01 of the Revised Code.

(U) "Generically equivalent drug" has the same meaning as in section 3715.01 of the Revised Code.

(V) "Animal shelter" means a facility operated by a humane society or any society organized under Chapter 1717. of the Revised Code or a dog pound operated pursuant to Chapter 955. of the Revised Code.

(W) "Food" has the same meaning as in section 3715.01 of the Revised Code.

Sec. 4729.41. (A) A pharmacist licensed under this chapter who meets the requirements of division (B) of this section may administer, ~~by injection,~~ adult immunizations for any of the following:

- (1) Influenza;
- (2) Pneumonia;
- (3) Tetanus;
- (4) Hepatitis A;
- (5) Hepatitis B.

(B) To be authorized to administer the adult immunizations specified in division (A) of this section, a pharmacist shall do all of the following:

(1) Successfully complete a course in the administration of adult immunizations that has been approved by the state board of pharmacy as meeting the standards established for such courses by the centers for disease control and prevention in the public health service of the United States department of health and human services;

(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course certified by the American red cross or American heart association;

(3) Practice in accordance with a definitive set of treatment guidelines specified in a protocol established by a physician and approved by the state board of pharmacy. The protocol shall include provisions requiring that the pharmacist do both of the following:

(a) Observe an individual who has been immunized by the pharmacist to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall be

specified in rules adopted by the state board of pharmacy under division (D) of this section.

(b) Not later than thirty days after administering an adult immunization to an individual, notify the individual's family physician or, if the individual has no family physician, the board of health of the health district in which the individual resides.

(C) No pharmacist shall do either of the following:

(1) Engage in the administration of adult immunizations by injection unless the requirements of division (B) of this section have been met;

(2) Delegate to any person the pharmacist's authority to administer adult immunizations.

(D) The state board of pharmacy shall adopt rules to implement this section, including rules for approval of courses in administration of adult immunizations and approval of protocols to be followed by pharmacists in administering adult immunizations. Prior to adopting the rules regarding approval of protocols, the state board of pharmacy shall consult with the state medical board and the board of nursing. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4731.27. (A) As used in this section, "collaboration," "physician," "standard care arrangement," and "supervision" have the same meanings as in section 4723.01 of the Revised Code.

(B) Except as provided in division ~~(C)~~(D)(1) of section 4723.431 of the Revised Code, a physician or podiatrist shall enter into a standard care arrangement with each clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration. The collaborating physician or podiatrist shall fulfill the responsibilities of collaboration, as specified in the arrangement and in accordance with division (A) of section 4723.431 of the Revised Code. A copy of the standard care arrangement shall be retained on file at each site where the nurse practices. Prior approval of the standard care arrangement by the state medical board is not required, but the board may periodically review it.

Nothing in this division prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and governing body of the hospital prior to implementation of the arrangement at the hospital.

(C) With respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner participating in an externship pursuant to an initial certificate to prescribe issued under section 4723.48 of the Revised Code, the physician responsible for evaluating the externship shall provide the state medical board with the name of the nurse. If the externship is terminated for any reason, the physician shall notify the board.

(D) A physician or podiatrist shall cooperate with the board of nursing in any investigation the board conducts with respect to a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who collaborates with the physician or podiatrist or with respect to a certified registered nurse anesthetist who practices with the supervision of the physician or podiatrist.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers'

compensation, the medical assistance program established under Chapter 5111. of the Revised Code, and ~~the disability assistance~~ medical assistance program established under Chapter 5115. of the Revised Code.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are

distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

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

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medical assistance program established under Chapter 5111. of the Revised Code or the disability ~~assistance~~ medical assistance program established under Chapter 5115. of the Revised Code, the auditor of state also shall report the amount to the department of commerce.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4734.15. (A) The license provided for in this chapter shall entitle

the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state:

(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic.

(2) The practice of chiropractic does not permit the chiropractor to treat infectious, contagious, or venereal disease, to perform surgery or acupuncture, or to prescribe or administer drugs for treatment.

(3) A chiropractor may use roentgen rays only for diagnostic purposes.

(4) The practice of chiropractic does not include the performance of abortions.

(B) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic physician," or "chiropractic" and is a "physician" for the purposes of Chapter 4123. of the Revised Code ~~and the medicare program operated pursuant to Chapter 5111. of the Revised Code.~~

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, ~~fifty-seven~~ seventy-five dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, ~~fifty-seven~~ seventy-five dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred ~~fourteen~~ fifty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~fixed by the board and shall not exceed sixty-one~~ sixty-nine dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~fixed by the board and shall not exceed sixty-one~~ sixty-nine dollars.

(6) For late application for renewal, twenty-five dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided

that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency.

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training.

Sec. 4743.05. Except as otherwise provided in sections 4701.20, 4723.062, 4723.082, and 4729.65 of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., and 4761., 4771., and 4779. of the Revised Code, ~~and until December 31, 2004, money collected under Chapter 4779. of the Revised Code,~~ shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters.

At the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education assistance fund created in section 3333.28 of the Revised Code the amount certified to the director under division (B) of section 4723.08 of the Revised Code.

At the end of each quarter, the director shall transfer from the occupational licensing and regulatory fund to the certified public accountant education assistance fund created in section 4701.26 of the Revised Code the amount certified to the director under division (H)(2) of section 4701.10 of the Revised Code.

Sec. 4747.05. (A) The hearing aid dealers and fitters licensing board shall issue to each applicant, within sixty days of receipt of a properly completed application and payment of two hundred ~~fifty~~ sixty-two dollars, a hearing aid dealer's or fitter's license if the applicant, if an individual:

- (1) Is at least eighteen years of age;
- (2) Is a person of good moral character;
- (3) Is free of contagious or infectious disease;
- (4) Has successfully passed a qualifying examination specified and administered by the board.

(B) If the applicant is a firm, partnership, association, or corporation, the application, in addition to such information as the board requires, shall be

accompanied by an application for a license for each person, whether owner or employee, of the firm, partnership, association, or corporation, who engages in dealing in or fitting of hearing aids, or shall contain a statement that such applications are submitted separately. No firm, partnership, association, or corporation licensed pursuant to this chapter shall permit any unlicensed person to sell or fit hearing aids.

(C) Each license issued expires on the thirtieth day of January of the year following that in which it was issued.

Sec. 4747.06. (A) Each person engaged in the practice of dealing in or fitting of hearing aids who holds a valid hearing aid dealer's or fitter's license shall apply annually to the hearing aid dealers and fitters licensing board for renewal of such license under the standard renewal procedure specified in Chapter 4745. of the Revised Code. The board shall issue to each applicant, on proof of completion of the continuing education required by division (B) of this section and payment of one hundred ~~fifty~~ fifty-seven dollars on or before the first day of February, one hundred ~~seventy-five~~ eighty-three dollars on or before the first day of March, or two hundred ten dollars thereafter, a renewed hearing aid dealer's or fitter's license. No person who applies for renewal of a hearing aid dealer's or fitter's license that has expired shall be required to take any examination as a condition of renewal provided application for renewal is made within two years of the date such license expired.

(B) Each person engaged in the practice of dealing in or fitting of hearing aids who holds a valid hearing aid dealer's or fitter's license shall complete each year not less than ten hours of continuing professional education approved by the board. On a form provided by the board, the person shall certify to the board, at the time of license renewal pursuant to division (A) of this section, that in the preceding year the person has completed continuing education in compliance with this division and shall submit any additional information required by rule of the board regarding the continuing education. The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the standards continuing education programs must meet to obtain board approval and continuing education reporting requirements.

Continuing education may be applied to meet the requirement of this division if it is provided or certified by any of the following:

- (1) The national institute of hearing instruments studies committee of the international hearing society;
- (2) The American speech-language hearing association;
- (3) The American academy of audiology.

The board may excuse persons licensed under this chapter, as a group or as individuals, from all or any part of the requirements of this division because of an unusual circumstance, emergency, or special hardship.

Sec. 4747.07. Each person who holds a hearing aid dealer's or fitter's license and engages in the practice of dealing in and fitting of hearing aids shall display such license in a conspicuous place in the person's office or place of business at all times. Each person who maintains more than one office or place of business shall post a duplicate copy of the license at each location. The hearing aid dealers and fitters licensing board shall issue duplicate copies of a license upon receipt of a properly completed application and payment of ~~fifteen~~ sixteen dollars for each copy requested.

Sec. 4747.10. Each person currently engaged in training to become a licensed hearing aid dealer or fitter shall apply to the hearing aid dealers and fitters licensing board for a hearing aid dealer's and fitter's trainee permit. The board shall issue to each applicant within thirty days of receipt of a properly completed application and payment of one hundred fifty dollars, a trainee permit if such applicant is:

- (A) At least eighteen years of age;
- (B) The holder of a diploma from an accredited high school, or possesses an equivalent education;
- (C) A person of good moral character;
- (D) Free of contagious or infectious disease.

Each trainee permit issued by the board expires one year from the date it was first issued, and may be renewed once if the trainee has not successfully completed the qualifying requirements for licensing as a hearing aid dealer or fitter before the expiration date of such permit. The board shall issue a renewed permit to each applicant upon receipt of a properly completed application and payment of one hundred five dollars. No person holding a trainee permit shall engage in the practice of dealing in or fitting of hearing aids except while under supervision by a licensed hearing aid dealer or fitter.

Sec. 4751.06. (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code, passed the examination administered by the board of examiners of nursing home administrators or a government or private entity under contract with the board, and paid to the board an original license fee of two hundred ~~ten~~ fifty dollars shall be issued a license on a form provided by the board. Such license shall certify that the applicant has met the licensure requirements of Chapter 4751. of the Revised Code and is entitled to practice as a licensed nursing home administrator.

- (B) A temporary license for a period not to exceed one hundred eighty

days may be issued to an individual temporarily filling the position of a nursing home administrator vacated by reason of death, illness, or other unexpected cause, pursuant to regulations adopted by the board.

(C) The fee for a temporary license is one hundred dollars. Said fee must accompany the application for the temporary license.

(D) Any license or temporary license issued by the board pursuant to this section shall be under the hand of the chairperson and the secretary of the board.

(E) A duplicate of the original certificate of registration or license may be secured to replace one that has been lost or destroyed by submitting to the board a notarized statement explaining the conditions of the loss, mutilation, or destruction of the certificate or license and by paying a fee of twenty-five dollars.

(F) A duplicate certificate of registration and license may be issued in the event of a legal change of name by submitting to the board a certified copy of the court order or marriage license establishing the change of name, by returning at the same time the original license and certificate of registration, and by paying a fee of twenty-five dollars.

Sec. 4751.07. (A) Every individual who holds a valid license as a nursing home administrator issued under division (A) of section 4751.06 of the Revised Code, shall immediately upon issuance thereof be registered with the board of examiners of nursing home administrators and be issued a certificate of registration. Such individual shall annually apply to the board for a new certificate of registration on forms provided for such purpose prior to the expiration of the certificate of registration and shall at the same time submit satisfactory evidence to the board of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board.

(B) Upon making an application for a new certificate of registration such individual shall pay the annual registration fee of two hundred ~~ten~~ fifty dollars.

(C) Upon receipt of such application for registration and the registration fee required by divisions (A) and (B) of this section, the board shall issue a certificate of registration to such nursing home administrator.

(D) The license of a nursing home administrator who fails to comply with this section shall automatically lapse.

(E) A nursing home administrator who has been licensed and registered in this state who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately; provided, that such individual may thereafter register to resume the practice

of nursing home administration within the state upon complying with the requirements of this section regarding annual registration.

(F) Only an individual who has qualified as a licensed and registered nursing home administrator under Chapter 4751. of the Revised Code and the rules adopted thereunder, and who holds a valid current registration certificate pursuant to this section, may use the title "nursing home administrator," or the abbreviation "N.H.A." after the individual's name. No other person shall use such title or such abbreviation or any other words, letters, sign, card, or device tending to indicate or to imply that the person is a licensed and registered nursing home administrator.

(G) Every person holding a valid license entitling the person to practice nursing home administration in this state shall display said license in the nursing home which is the person's principal place of employment, and while engaged in the practice of nursing home administration shall have at hand the current registration certificate.

(H) Every person holding a valid temporary license shall have such license at hand while engaged in the practice of nursing home administration.

Sec. 4759.08. (A) The Ohio board of dietetics shall charge and collect fees as described in this section for issuing the following:

(1) An application for an initial dietitian license, or an application for ~~reinstatement~~ reactivation of an inactive license, one hundred ~~ten~~ twenty-five dollars, and for reinstatement of a lapsed, revoked, or suspended license, one hundred ~~sixty-five~~ eighty dollars;

(2) License renewal, ~~eighty~~ ninety-five dollars;

(3) A limited permit, and renewal of the permit, ~~fifty-five~~ sixty-five dollars;

(4) A duplicate license or permit, twenty dollars;

(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal.

(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee.

(C) Subject to the approval of the controlling board, the Ohio board of dietetics may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent.

(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license.

(E) All receipts of the board shall be deposited in the state treasury to

the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or secretary of the board, or both, as authorized by the board.

Sec. 4771.22. The Ohio athletic commission shall deposit all money it receives under this chapter to the credit of the ~~athlete agents registration~~ occupational licensing and regulatory fund, ~~which is hereby created in the state treasury. The commission shall use the fund to administer and enforce this chapter under section 4743.05 of the Revised Code.~~

Sec. 4779.08. (A) The state board of orthotics, prosthetics, and pedorthics shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing all of the following:

(1) The form and manner of filing of applications to be admitted to examinations and for licensure and license renewal;

(2) Standards and procedures for formulating, evaluating, approving, and administering licensing examinations or recognizing other entities that conduct examinations;

(3) The form, scoring, and scheduling of licensing examinations;

(4) Fees for examinations and applications for licensure and license renewal;

(5) Fees for approval of continuing education courses;

(6) Procedures for issuance, renewal, suspension, and revocation of licenses and the conduct of disciplinary hearings;

(7) Standards of ethical and professional conduct in the practice of orthotics, prosthetics, and pedorthics;

(8) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;

(9) Fines for violations of this chapter;

(10) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;

(11) Standards for continuing education programs required for license renewal;

(12) Provisions for making available the information described in section 4779.22 of the Revised Code.

(B) The board may adopt any other rules necessary for the administration of this chapter.

(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall ~~from the effective date of this section until December 31, 2004,~~ deposit the fees in the occupational licensing and regulatory fund

established in section 4743.05 of the Revised Code.

Sec. 4779.17. The state board of orthotics, prosthetics, and pedorthics shall issue a license under section 4779.09 of the Revised Code to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics without examination to an applicant who meets all of the following requirements:

(A) Applies to the board in accordance with section 4779.09 of the Revised Code;

(B) Holds a license to practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics issued by the appropriate authority of another state;

(C) One of the following applies:

(1) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.

(2) In the case of an applicant for a license to practice prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.11 of the Revised Code.

(3) In the case of an applicant for a license to practice orthotics and prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.12 of the Revised Code.

(4) In the case of an applicant for a license to practice pedorthics, the applicant meets the requirements in divisions (B) and (C) of section 4779.13 of the Revised Code.

(D) The fees prescribed by this section shall be paid to the treasurer of state, who shall ~~from the effective date of this section until December 31, 2004,~~ deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.

Sec. 4779.18. (A) The state board of orthotics, prosthetics, and pedorthics shall issue a temporary license to an individual who meets all of the following requirements:

(1) Applies to the board in accordance with rules adopted under section 4779.08 of the Revised Code and pays the application fee specified in the rules;

(2) Is eighteen years of age or older;

(3) Is of good moral character;

(4) One of the following applies:

(a) In the case of an applicant for a license to practice orthotics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.10 of the Revised Code.

(b) In the case of an applicant for a license to practice prosthetics, the

applicant meets the requirements in divisions (A)(2) and (3) of section 4779.11 of the Revised Code.

(c) In the case of an applicant for a license to practice orthotics and prosthetics, the applicant meets the requirements in divisions (A)(2) and (3) of section 4779.12 of the Revised Code.

(d) In the case of an applicant for a license to practice pedorthics, the applicant meets the requirements in divisions (B) and (C) of section 4779.13 of the Revised Code.

(B) A temporary license issued under this section is valid for one year and may be renewed once in accordance with rules adopted by the board under section 4779.08 of the Revised Code.

An individual who holds a temporary license may practice orthotics, prosthetics, orthotics and prosthetics, or pedorthics only under the supervision of an individual who holds a license issued under section 4779.09 of the Revised Code in the same area of practice.

(C) The fees prescribed by this section shall be paid to the treasurer of state, who shall ~~from the effective date of this section until December 31, 2004,~~ deposit the fees in the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.

Sec. 4903.24. If the public utilities commission finds after investigating that any rate, joint rate, fare, charge, toll, rental, schedule, or classification of service is unjust, unreasonable, insufficient, unjustly discriminatory, unjustly preferential, or in violation of law, or that any service is inadequate or cannot be obtained, the public utility found to be at fault shall pay the expenses incurred by the commission upon such investigation.

All fees, expenses, and costs of, or in connection with, any hearing or investigation may be imposed by the commission upon any party to the record or may be divided among any parties to the record in such proportion as the commission determines.

All fees, expenses, and costs authorized and collected under this section shall be deposited to the credit of the special assessment fund, which is hereby created in the state treasury. Money in the fund shall be used by the commission for the purpose of covering the costs of any investigations or hearings it orders regarding any public utility.

Sec. 4905.79. Any telephone company, as defined in ~~division (D)(2) of~~ section 5727.01 of the Revised Code, that is required to provide any telephone service program implemented after March 27, 1991, to aid the communicatively impaired in accessing the telephone network shall be allowed a tax credit for the costs of any such program under section ~~5727.44~~ 5733.56 of the Revised Code. Relative to any such program, the public

utilities commission, in accordance with its rules, shall allow interested parties to intervene and participate in any proceeding or part of a proceeding brought before the commission pursuant to this section. The commission shall adopt rules it considers necessary to carry out this section.

Sec. 4905.91. For the purpose of protecting the public safety with respect to intrastate pipe-line transportation by any operator:

(A) The public utilities commission shall:

(1) Adopt, and may amend or rescind, rules to carry out sections 4905.90 to 4905.96 of the Revised Code, including rules concerning pipe-line safety, drug testing, and enforcement procedures. The commission shall adopt these rules only after notice and opportunity for public comment. The rules adopted under this division and any orders issued under sections 4905.90 to 4905.96 of the Revised Code constitute the pipe-line safety code. The commission shall administer and enforce that code.

(2) Make certifications and reports to the United States department of transportation as required under the Natural Gas Pipeline Safety Act.

(B) The commission may:

(1) Investigate any service, act, practice, policy, or omission by any operator to determine its compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code;

(2) Investigate any intrastate pipe-line transportation facility to determine if it is hazardous to life or property, as provided in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1679b(b)(2) and (3);

(3) Investigate the existence or report of any safety-related condition that involves any intrastate pipe-line transportation facility;

(4) Enter into and perform contracts or agreements with the United States department of transportation to inspect interstate transmission facilities pursuant to the Natural Gas Pipeline Safety Act;

(5) Accept grants-in-aid, ~~funds~~ cash, and reimbursements provided for or made available to this state by the federal government to carry out the Natural Gas Pipeline Safety Act or to enforce sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. All such grants-in-aid, cash, and reimbursements shall be deposited to the credit of the gas pipe-line safety fund, which is hereby created in the state treasury, to be used by the commission for the purpose of carrying out this section.

(C) The commission's regulation of gathering lines shall conform to the regulation of gathering lines in 49 C.F.R. ~~parts~~ 192 and 199, as amended, and the commission's annual certification agreements with the United States department of transportation, except that rule 4901:1-16-03, paragraph (D) of rule 4901:1-16-05, and rule 4901:1-16-06 of the Ohio Administrative

Code shall also apply to gathering lines. The procedural rules under chapter 4901:1-16 of the Ohio Administrative Code shall also apply to operators of gathering lines.

Sec. 4919.79. (A) The public utilities commission may adopt safety rules applicable to the highway transportation and offering for transportation of hazardous materials in interstate commerce, which highway transportation takes place into or through this state.

(B) The commission may adopt safety rules applicable to the highway transportation of persons or property in interstate commerce, which transportation takes place into or through this state.

(C) Rules adopted under divisions (A) and (B) of this section shall be consistent with, and equivalent in scope, coverage, and content to, the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended, and regulations adopted under it, and the "Motor Carrier Safety Act of 1984," 98 Stat. 2832, 49 U.S.C.A. 2501, and regulations adopted under it, respectively. No person shall violate a rule adopted under division (A) or (B) of this section or any order of the commission issued to secure compliance with any such rule.

(D) The commission shall cooperate with, and permit the use of, the services, records, and facilities of the commission as fully as practicable by appropriate officers of the interstate commerce commission, the United States department of transportation, and other federal agencies or commissions and appropriate commissions of other states in the enforcement and administration of state and federal laws relating to highway transportation by motor vehicles. The commission may enter into cooperative agreements with the interstate commerce commission, the United States department of transportation, and any other federal agency or commission to enforce the economic and safety laws and rules of this state and of the United States concerning highway transportation by motor vehicles. All grants-in-aid, cash, and reimbursements received by the commission pursuant to those cooperative agreements shall be deposited to the credit of the motor carrier safety fund, which is hereby created in the state treasury, to be used by the commission for the purpose of carrying out this section.

(E) To achieve the purposes of this section, the commission may, through its inspectors or other authorized employees, inspect any vehicles of carriers of persons or property in interstate commerce subject to the safety rules prescribed by this section and may enter upon the premises and vehicles of such carriers to examine any of the carriers' records or documents that relate to the safety of operation of such carriers. In order to

assist the commission in the performance of its duties under this section, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon, for purposes of inspection, any vehicle of any such carrier.

In order to inspect motor vehicles owned or operated by private motor carriers of persons, authorized employees of the commercial motor vehicle safety enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon the premises of any private carrier of persons in interstate commerce, subject to the safety rules prescribed by this section.

Sec. 4931.45. (A) A final plan may be amended to expand the territory included in the countywide 9-1-1 system, to upgrade any part or all of a system from basic 9-1-1 to enhanced 9-1-1 service, to adjust the territory served by a public safety answering point, to represcribe the funding of public safety answering points as between the alternatives set forth in division (B)(5) of section 4931.43 of the Revised Code, or to make any other necessary adjustments to the plan only by convening a new 9-1-1 planning committee, and adopting an amended final plan. The convening of a new 9-1-1 planning committee and the proposal and adoption of an amended final plan shall be made in the same manner required for the convening of an initial committee and adoption of an original proposed and final plan under sections 4931.42 to 4931.44 of the Revised Code. Adoption of any resolution under section 4931.51 of the Revised Code pursuant to a final plan that both has been adopted and provides for funding through charges imposed under that section is not an amendment of a final plan for the purpose of this division.

(B) When a final plan is amended to expand the territory that receives 9-1-1 service or to upgrade a 9-1-1 system from basic to enhanced 9-1-1 service, ~~the provisions of~~ sections 4931.47 and ~~5727.39~~ 5733.55 of the Revised Code apply with respect to the telephone company's recovery of the nonrecurring and recurring rates and charges for the telephone network portion of the system.

Sec. 4931.47. (A) In accordance with Chapters 4901., 4903., 4905., 4909., and 4931. of the Revised Code, the public utilities commission shall determine the just, reasonable, and compensatory rates, tolls, classifications, charges, or rentals to be observed and charged for the telephone network portion of a basic and enhanced 9-1-1 system, and each telephone company participating in the system shall be subject to such chapters, to the extent they apply, as to the service provided by its portion of the telephone network system as described in the final plan or to be installed pursuant to

agreements under section 4931.48 of the Revised Code, and as to the rates, tolls, classifications, charges, or rentals to be observed and charged for that service.

(B) Only the customers of a participating telephone company that are served within the area covered by a 9-1-1 system shall pay the recurring rates for the maintenance and operation of the telephone network in providing 9-1-1 service. Such rates shall be computed by dividing the total monthly recurring rates set forth in a telephone company's schedule as filed in accordance with section 4905.30 of the Revised Code, by the total number of residential and business customer access lines, or their equivalent, within the area served. Each residential and business customer within the area served shall pay the recurring rates based on the number of its residential and business customer access lines or their equivalent. No company may include such amount on any customer's bill until the company has completed its portion of the telephone network in accordance with the terms, conditions, requirements, and specifications of the final plan or an agreement made under section 4931.48 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the total nonrecurring charges for the telephone network used in providing 9-1-1 service, as set forth in the schedule filed by a telephone company in accordance with section 4905.30 of the Revised Code, on completion of the installation of the network in accordance with the terms, conditions, requirements, and specifications of the final plan or pursuant to section 4931.48 of the Revised Code shall be recovered by the company through the credit authorized by section ~~5727.39~~ 5733.55 of the Revised Code.

(2) The credit shall not be allowed for upgrading of a system from basic to enhanced 9-1-1 service when:

(a) The telephone company received the credit for the telephone network portion of the basic 9-1-1 system now proposed to be upgraded; and

(b) At the time the final plan or agreement pursuant to section 4931.48 of the Revised Code calling for the basic 9-1-1 system was agreed to, the telephone company was capable of reasonably meeting the technical and economic requirements of providing the telephone network portion of an enhanced 9-1-1 system within the territory proposed to be upgraded, as determined by the public utilities commission under division (A) or (H) of section 4931.41 or division (C) of section 4931.48 of the Revised Code.

(3) When the credit is not allowed under division (C)(2) of this section, the total nonrecurring charges for the telephone network used in providing 9-1-1 service, as set forth in the schedule filed by a telephone company in

accordance with section 4905.30 of the Revised Code, on completion of the installation of the network in accordance with the terms, conditions, requirements, and specifications of the final plan or pursuant to section 4931.48 of the Revised Code, shall be paid by the municipal corporations and townships with any territory in the area in which such upgrade from basic to enhanced 9-1-1 service is made.

(D) Where customer premises equipment for a public safety answering point is supplied by a telephone company that is required to file a schedule under section 4905.30 of the Revised Code pertaining to customer premises equipment, the recurring and nonrecurring rates and charges for the installation and maintenance of the equipment specified in the schedule shall apply.

Sec. 4931.48. (A) If a final plan is disapproved under division (B) of section 4931.44 of the Revised Code, by resolution, the legislative authority of a municipal corporation or township that contains at least thirty per cent of the county's population may establish within its boundaries, or the legislative authorities of a group of municipal corporations or townships each of which is contiguous with at least one other such municipal corporation or township in the group, together containing at least thirty per cent of the county's population, may jointly establish within their boundaries a 9-1-1 system. For this purpose, the municipal corporation or township may enter into an agreement, and the contiguous municipal corporations or townships may jointly enter into an agreement with a telephone company providing service in the municipal corporations or townships to provide for the telephone network portion of the system.

(B) If no resolution has been adopted to convene a 9-1-1 planning committee under section 4931.42 of the Revised Code, but not sooner than eighteen months after the effective date of such section, by resolution, the legislative authority of any municipal corporation in the county may establish within its boundaries, or the legislative authorities of a group of municipal corporations and townships each of which is contiguous to at least one of the other such municipal corporations or townships in the group may jointly establish within their boundaries, a 9-1-1 system. The municipal corporation or contiguous municipal corporations and townships, may enter into an agreement with a telephone company serving ~~customers~~ customers within the boundaries of the municipal corporation or contiguous municipal corporations and townships, to provide for the telephone network portion of a 9-1-1 system.

(C) Whenever a telephone company and one or more municipal corporations and townships enter into an agreement under this section to

provide for the telephone network portion of a basic 9-1-1 system, the telephone company shall so notify the public utilities commission, which shall determine whether the telephone company is capable of reasonably meeting the technical and economic requirements of providing the telephone network for an enhanced system within the territory served by the company and covered by the agreement. The determination shall be made solely for the purposes of division (C)(2) of section 4931.47 of the Revised Code.

(D) Within three years from the date of entering into an agreement under division (A) or (B) of this section, the telephone company shall have installed the telephone network portion of the 9-1-1 system according to the terms, conditions, requirements, and specifications set forth in the agreement.

(E) The telephone company shall recover the cost of installing the telephone network system pursuant to agreements made under this section as provided in ~~sections~~ section 4931.47 and 5727.39 of the Revised Code, as authorized under section 5733.55 of the Revised Code.

Sec. 4973.17. (A) Upon the application of any bank, building and loan association, or association of banks or building and loan associations in this state, the ~~governor~~ secretary of state may appoint and commission any persons that the bank, building and loan association, or association of banks or building and loan associations designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for and on the premises of that bank, building and loan association, or association of banks or building and loan associations, or elsewhere, when directly in the discharge of their duties. Police officers so appointed shall be citizens of this state and of good character. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the ~~governor~~ secretary of state, or by the bank, building and loan association, or association of banks or building and loan associations, as provided by law.

(B) Upon the application of a company owning or using a railroad in this state and subject to section 4973.171 of the Revised Code, the ~~governor~~ secretary of state may appoint and commission any persons that the railroad company designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for and on the premises of the railroad company, its affiliates or subsidiaries, or elsewhere, when directly in the discharge of their duties. Police officers so appointed, within the time set by the Ohio peace officer training commission, shall successfully complete a commission approved training program and be certified by the commission. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the ~~governor~~

secretary of state, or railroad company, as provided by law.

Any person holding a similar commission in another state may be commissioned and may hold office in this state without completing the approved training program required by this division provided that ~~that~~ the person has completed a substantially equivalent training program in the other state. The Ohio peace officer training commission shall determine whether a training program in another state meets the requirements of this division.

(C) Upon the application of any company under contract with the United States atomic energy commission for the construction or operation of a plant at a site owned by ~~such the~~ commission, the ~~governor~~ secretary of state may appoint and commission ~~such~~ persons as the company designates, not to exceed one hundred fifty, to act as police officers for the company at the plant or site owned by ~~such the~~ commission. Police officers so appointed shall be citizens of this state and of good character. They shall hold office for three years, unless, for good cause shown, their commission is revoked by the ~~governor~~ secretary of state or by the company, as provided by law.

(D)(1) Upon the application of any hospital that is operated by a public hospital agency or a nonprofit hospital agency and that employs and maintains its own proprietary police department or security department and subject to section 4973.171 of the Revised Code, the ~~governor~~ secretary of state may appoint and commission any persons that the hospital designates, or as many of those persons as the ~~governor~~ secretary of state considers proper, to act as police officers for the hospital. No person who is appointed as a police officer under this division shall engage in any duties or activities as a police officer for the hospital or any affiliate or subsidiary of the hospital unless all of the following apply:

(a) The chief of police of the municipal corporation in which the hospital is located; or, if the hospital is located in the unincorporated area of a county, the sheriff of that county; has granted approval to the hospital to permit persons appointed as police officers under this division to engage in those duties and activities. The approval required by this division is general in nature and is intended to cover in the aggregate all persons appointed as police officers for the hospital under this division; a separate approval is not required for each appointee on an individual basis.

(b) Subsequent to the grant of approval described in division (D)(1)(a) of this section, the hospital has entered into a written agreement with the chief of police of the municipal corporation in which the hospital is located; or, if the hospital is located in the unincorporated area of a county, with the sheriff of that county, that sets forth the standards and criteria to govern the

interaction and cooperation between persons appointed as police officers for the hospital under this division and law enforcement officers serving the agency represented by the chief of police or sheriff who signed the agreement in areas of their concurrent jurisdiction. The written agreement shall be signed by the appointing authority of the hospital and by the chief of police or sheriff. The standards and criteria may include, but are not limited to, provisions governing the reporting of offenses discovered by hospital police officers to the agency represented by the chief of police or sheriff, provisions governing investigatory responsibilities relative to offenses committed on hospital property, and provisions governing the processing and confinement of persons arrested for offenses committed on hospital property. The agreement required by this division is intended to apply in the aggregate to all persons appointed as police officers for the hospital under this division; a separate agreement is not required for each appointee on an individual basis.

(c) The person has successfully completed a training program approved by the Ohio peace officer training commission and has been certified by the commission. A person appointed as a police officer under this division may attend a training program approved by the commission and be certified by the commission regardless of whether the appropriate chief of police or sheriff has granted the approval described in division (D)(1)(a) of this section and regardless of whether the hospital has entered into the written agreement described in division (D)(1)(b) of this section with the appropriate chief of police or sheriff.

(2)(a) A person who is appointed as a police officer under division (D)(1) of this section is entitled, upon the grant of approval described in division (D)(1)(a) of this section and upon ~~that~~ the person's and the hospital's compliance with the requirements of divisions (D)(1)(b) and (c) of this section, to act as a police officer for the hospital on the premises of the hospital and of its affiliates and subsidiaries that are within the territory of the municipal corporation served by the chief of police or the unincorporated area of the county served by the sheriff who signed the written agreement described in division (D)(1)(b) of this section, whichever is applicable, and anywhere else within the territory of that municipal corporation or within the unincorporated area of that county. The authority to act as a police officer as described in this division is granted only if the person, when engaging in that activity, is directly in the discharge of ~~that~~ the person's duties as a police officer for the hospital. The authority to act as a police officer as described in this division shall be exercised in accordance with the standards and criteria set forth in the written agreement described in

division (D)(1)(b) of this section.

(b) Additionally, a person appointed as a police officer under division (D)(1) of this section is entitled, upon the grant of approval described in division (D)(1)(a) of this section and upon ~~that~~ the person's and the hospital's compliance with the requirements of divisions (D)(1)(b) and (c) of this section, to act as a police officer elsewhere, within the territory of a municipal corporation or within the unincorporated area of a county, if the chief of police of that municipal corporation or the sheriff of that county, respectively, has granted approval for that activity to the hospital, police department, or security department served by the person as a police officer and if the person, when engaging in that activity, is directly in the discharge of ~~that~~ the person's duties as a police officer for the hospital. The approval described in this division may be general in nature or may be limited in scope, duration, or applicability, as determined by the chief of police or sheriff granting the approval.

(3) Police officers appointed under division (D)(1) of this section shall hold office for three years, unless, for good cause shown, their commission is revoked by the ~~governor~~ secretary of state or by the hospital, as provided by law. As used in divisions (D)(1) to (3) of this section, "public hospital agency" and "nonprofit hospital agency" have the same ~~meaning~~ meanings as in section 140.01 of the Revised Code.

(E) A fee of ~~five~~ fifteen dollars for each commission applied for under this section shall be paid at the time the application is made, and this amount shall be returned if for any reason a commission is not issued.

Sec. 4981.20. (A) Any real or personal property, or both, of the Ohio rail development commission that is acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, and leased or subleased under authority of sections 4981.11 to 4981.26 of the Revised Code shall be subject to ad valorem, sales, use, and franchise taxes and to zoning, planning, and building regulations and fees, to the same extent and in the same manner as if the lessee-user or sublessee-user thereof, rather than the issuer, had acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, such real or personal property, and title thereto was in the name of such lessee-user or sublessee-user.

The transfer of tangible personal property by lease or sublease under authority of sections 4981.11 to 4981.26 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code. The exemptions provided in divisions (B)(1) and ~~(14)~~(13) of section 5739.02 of the Revised Code shall not be applicable to purchases for a project under sections 4981.11 to

4981.26 of the Revised Code.

The issuer shall be exempt from all taxes on its real or personal property, or both, which has been acquired, constructed, reconstructed, enlarged, improved, furnished, or equipped, or any combination thereof, under sections 4981.11 to 4981.26 of the Revised Code so long as such property is used by the issuer for purposes which would otherwise exempt such property; has ceased to be used by a former lessee-user or sublessee-user and is not occupied or used; or has been acquired by the issuer but development has not yet commenced. The exemption shall be effective as of the date the exempt use begins. All taxes on the exempt real or personal property for the year should be prorated and the taxes for the exempt portion of the year shall be remitted by the county auditor.

(B) Bonds issued under sections 4981.11 to 4981.26 of the Revised Code, the transfer thereof, and the interest and other income from the bonds, including any profit made on the sale thereof, are free from taxation within the state.

Sec. 5101.11. This section does not apply to contracts entered into under section ~~5111.022~~, 5111.90; or 5111.91 of the Revised Code.

(A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of job and family services or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A, Title IV-E, and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended; the "Food Stamp Act of 1964," 78 Stat. 703, 7 U.S.C. 2011, as amended; and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department of job and family services pursuant to division (B) of this section shall be distributed to the entities that

incurred the costs, except for any amounts retained by the department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department of job and family services or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services for the use of the funds to improve and expand the program.

(F) The director of job and family services shall adopt rules as necessary to implement this section, including rules for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The director may adopt or amend any statewide plan required by the federal government for a program administered by the department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5101.12. The department of job and family services shall maximize its receipt of federal revenue. In fulfilling this duty, the department may

enter into contracts to maximize federal revenue without the expenditure of state money. In selecting private entities with which to contract, the department shall engage in a request for proposals process. The department, subject to the approval of the controlling board, may also directly enter into contracts with public entities providing revenue maximization services.

Each year in January and July, the department shall submit a report to the office of budget and management outlining the department's success in maximizing federal revenue. The office of budget and management shall establish procedures and requirements for preparing and submitting the reports and shall compile data concerning the amount of federal revenue received by the department. The department shall submit a copy of each of its reports to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the legislative service commission.

Sec. 5101.14. (A) As used in this section and section 5101.144 of the Revised Code, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.

(B) Within available funds, the department of job and family services shall ~~make payments~~ distribute funds to the counties within thirty days after the beginning of each calendar quarter for a part of ~~their~~ the counties' costs for children services to children performed pursuant to Chapter 5153. of the Revised Code.

Funds provided to the county under this section shall be deposited into the children services fund created pursuant to section 5101.144 of the Revised Code.

~~(B)(1) The funds distributed under this section shall be used for the following:~~

- ~~(a) Home-based services to children and families;~~
- ~~(b) Protective services to children;~~
- ~~(c) To find, develop, and approve adoptive homes;~~
- ~~(d) Short-term, out-of-home care and treatment for children;~~
- ~~(e) Costs for the care of a child who resides with a caretaker relative, other than the child's parent, and is in the legal custody of a public children services agency pursuant to a voluntary temporary custody agreement entered into under division (A) of section 5103.15 of the Revised Code or in the legal custody of a public children services agency or the caretaker relative pursuant to an allegation or adjudication of abuse, neglect, or dependency made under Chapter 2151. of the Revised Code;~~

~~(f) Other services a public children services agency considers necessary to protect children from abuse, neglect, or dependency.~~

~~(2) No funds distributed under this section shall be used for the costs of maintaining a child in a children's home owned and operated by the county.~~

(C) In each fiscal year, the amount of funds available for distribution under this section shall be allocated to counties as follows:

(1) If the amount is less than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the percentage of the funding it received in the immediately preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(2) If the amount is equal to the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the amount it received in the preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(3) If the amount is greater than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive the amount determined under division (C)(2) of this section as a base allocation, plus a percentage of the amount that exceeds the amount initially appropriated for the immediately preceding fiscal year. The amount exceeding the amount initially appropriated in the immediately preceding fiscal year shall be allocated to the counties as follows:

(a) Twelve per cent divided equally among all counties;

(b) Forty-eight per cent in the ratio that the number of residents of the county under the age of eighteen bears to the total number of such persons residing in this state;

(c) Forty per cent in the ratio that the number of residents of the county with incomes under the federal poverty guideline bears to the total number of such persons in this state.

As used in division (C)(3)(c) of this section, "federal poverty guideline" means the poverty guideline as defined by the United States office of management and budget and revised by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended.

~~(D) The director of job and family services may adopt rules as necessary for the allocation of funds under this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code.~~

~~(E)(1) As used in this division, "services to children" means children's protective services, home-based services to children and families, foster home services, residential treatment services, adoptive services, and~~

independent living services.

~~(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds was less than the total expended from that source in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.~~

~~The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:~~

~~(a) An across the board reduction in the county budget as a whole;~~
~~(b) A reduced or failed levy specifically earmarked for children services;~~

~~(c) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.~~

~~(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole or partial waivers of the provisions of this division.~~

~~(F) Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution, or who are in adoptions subsidized under division (B) of section 5153.163 of the Revised Code are eligible for medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.~~

~~(G) Within ninety days after the end of each state fiscal year biennium, each county shall return any unspent funds to the department.~~

~~(H) In accordance with Chapter 119. of the Revised Code, the (E) The director shall of job and family services may adopt, and may amend and rescind, the following rules in accordance with section 111.15 of the Revised Code:~~

~~(1) Rules that are necessary for the allocation of funds under this section;~~

~~(2) Rules prescribing reports on expenditures to be submitted by the counties as necessary for the implementation of this section.~~

Sec. 5101.141. (A) As used in sections 5101.141 to 5101.1410 of the Revised Code, "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.

(B) The department of job and family services shall act as the single

state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E ~~of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended.~~ The director of job and family services shall adopt rules to implement this authority. ~~Internal management rules~~ Rules governing financial and administrative requirements applicable to public children services agencies, private child placing agencies, and private noncustodial agencies government entities that provide Title IV-E reimbursable placement services to children shall be adopted in accordance with section 111.15 of the Revised Code, as if they were internal management rules. Rules governing requirements applicable to private child placing agencies and private noncustodial agencies and rules establishing eligibility, program participation, and other requirements concerning Title IV-E shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds shall administer the funds in accordance with those rules.

~~(B)(C)~~(1) The county, on behalf of each child eligible for foster care maintenance payments under Title IV-E ~~of the "Social Security Act,"~~ shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division ~~(B)(C)~~(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E ~~of the "Social Security Act,"~~ make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions ~~(B)(C)~~(1) and (2) of this section.

~~(C)(D)~~ To the extent that either foster care maintenance payments under division ~~(B)~~ (C) of this section or Title IV-E adoption assistance payments

for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.

~~(D)~~(E) The department shall distribute to public children services agencies that incur and report such expenditures federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the Ohio child welfare training program established under section 5153.60 of the Revised Code and the university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation. The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

~~(E)~~(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5101.144 of the Revised Code.

~~(F)~~(G) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

~~(G)~~(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of medical assistance and other social services to children in relation to whom all of the following apply:

- (1) They have special needs.
- (2) This state or another state that is a party to the interstate compact is providing adoption assistance on their behalf.
- (3) They move into this state from another state or move out of this state to another state.

Sec. 5101.142. (A) The department of job and family services may apply to the United States secretary of health and human services for a waiver of requirements established under Title IV-E of the "~~Social Security Act~~," 94 Stat. 501, 42 U.S.C.A. 670 (1980), or regulations adopted thereunder, to conduct a demonstration project expanding eligibility for and services provided under Title IV-E. The department may enter into agreements with the secretary necessary to implement the demonstration

project, including agreements establishing the terms and conditions of the waiver authorizing the project. If a demonstration project is to be established, the department shall do all of the following:

(1) Have the director of job and family services adopt rules in accordance with Chapter 119. of the Revised Code governing the project. The rules shall be consistent with the agreements the department enters into with the secretary.

(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project.

(3) Contract with persons or governmental agencies providing services under the project;

(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to implement the project;

(5) Conduct ongoing evaluations of the project;

(6) Perform other administrative and operational activities required by the agreement with the secretary.

(B) The department may apply to the United States secretary of health and human services for a waiver of the requirements established under Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder and established under any other federal law or regulations that affect the children services functions prescribed by Chapter 5153. of the Revised Code, to conduct demonstration projects or otherwise improve the effectiveness and efficiency of the children services function.

~~Sec. 5101.144. As used in this section, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.~~

Each county shall deposit all funds its public children services agency receives from appropriations made by the board of county commissioners or any other source for the purpose of providing children services into a special fund in the county treasury known as the children services fund. A county shall use money in the fund only for the purposes of meeting the expenses of providing children services.

~~Sec. 5101.145. (A) For the purposes of this section, "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980).~~

~~(B)~~ In adopting rules under section 5101.141 of the Revised Code regarding financial requirements applicable to public children services

agencies, private child placing agencies, ~~and~~ private noncustodial agencies, and government entities that provide Title IV-E reimbursable placement services to children, the department of job and family services shall establish both of the following:

(1) A single form for the agencies or entities to report costs reimbursable under Title IV-E and costs reimbursable under medicaid;

(2) Procedures to monitor cost reports submitted by the agencies or entities.

~~(C)(B)~~ The procedures established under division ~~(B)(A)~~(2) of this section shall be implemented not later than October 1, 2003. The procedures shall be used to do both of the following:

(1) Determine which of the costs are reimbursable under Title IV-E;

(2) Ensure that costs reimbursable under medicaid are excluded from determinations made under division ~~(C)(B)~~(1) of this section.

Sec. 5101.146. The department of job and family services shall establish the following penalties, which shall be enforced at the discretion of the department, for the failure of a public children services agency, private child placing agency, ~~or~~ private noncustodial agency, or government entity that provides Title IV-E reimbursable placement services to children to comply with procedures the department establishes to ensure fiscal accountability:

(A) For initial failure, the department and the agency or entity involved shall jointly develop and implement a corrective action plan according to a specific schedule. If requested by the agency or entity involved, the department shall provide technical assistance to the agency or entity to ensure the fiscal accountability procedures and goals of the plan are met.

(B) For subsequent failures or failure to achieve the goals of the plan described in division (A) of this section, ~~either one~~ of the following:

(1) For public children services agencies, the department may take any action permitted under division ~~(B)(3)(C)~~(2), (4), ~~or~~ (5), or (6) of section 5101.24 of the Revised Code.

(2) For private child placing agencies or private noncustodial agencies, cancellation of any Title IV-E allowability rates for the agency involved pursuant to section 5101.141 of the Revised Code or revocation pursuant to Chapter 119. of the Revised Code of that agency's certificate issued under section 5103.03 of the Revised Code;

(3) For government entities, other than public children services agencies, that provide Title IV-E reimbursable placement services to children, cancellation of any Title IV-E allowability rates for the entity involved pursuant to section 5101.141 of the Revised Code.

Sec. 5101.1410. In addition to the remedies available under sections

5101.146 and 5101.24 of the Revised Code, the department of job and family services may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against a public children services agency, private child placing agency, private noncustodial agency, or government entity that provides Title IV-E reimbursable placement services to children if all of the following are the case:

(A) The agency or entity files a cost report with the department pursuant to rules adopted under division (B) of section 5101.141 of the Revised Code.

(B) The department receives and distributes federal Title IV-E reimbursement funds based on the cost report.

(C) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other inclusion or omission of any cost included in the cost report causes the United States department of health and human services to disallow all or part of the federal Title IV-E reimbursement funds the department received and distributed.

(D) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other inclusion or omission of any cost included in the cost report is not the direct result of a written directive concerning the agency or entity's cost report that the department issued to the agency or entity.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial and medical assistance provided program established under Chapter 5115. of the Revised Code.

(2) "Disability medical assistance" means the medical assistance program established under Chapter 5115. of the Revised Code.

(3) "Food stamps" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

~~(3)~~(4) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

~~(4)~~(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

~~(5)~~(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

~~(6)~~(7) "Public assistance expenditures" means expenditures for all of the following:

- (a) Ohio works first;
- (b) County administration of Ohio works first;
- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- (f) Disability medical assistance;
- (g) County administration of disability financial assistance;
- ~~(g)~~(h) County administration of disability medical assistance;
- (i) County administration of food stamps;
- ~~(h)~~(j) County administration of medicaid.
- (8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and disability medical assistance and county administration of ~~disability assistance~~ those programs during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of food stamps and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

~~(3)(a) Except as provided in division (B)(3)(b) of this section, A~~
percentage of the actual amount, as determined by the department of job and family services from expenditure reports submitted to the United States department of health and human services, of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child day-care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United

States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

~~(b) For state fiscal years 2000 and 2001, seventy-seven per cent of the amount determined under division (B)(3)(a) of this section.~~

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ten per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ten per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to a sanction under section 5101.24 of the Revised Code.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent

such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of food stamps and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

~~(1)(a)~~ The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

~~(2)(b)~~ The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

~~(3)(c)~~ The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

~~(4)(d)~~ The percentage to be used for the purpose of division (B)(3) of this section, which shall meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

~~(e)~~ Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.162. The Subject to available federal funds and appropriations made by the general assembly, the department of job and family services may, at its sole discretion, use available federal funds to reimburse county expenditures for county administration of food stamps or medicaid even though the county expenditures meet or exceed the maximum allowable reimbursement amount established by rules adopted under section 5101.161 of the Revised Code if the board of county commissioners has ~~not~~ entered into a ~~partnership~~ fiscal agreement with the director of job and family services under section 5101.21 of the Revised Code. The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. 5101.18. (A) When the director of job and family services adopts rules under section 5107.05 regarding income requirements for the Ohio works first program and under section ~~5115.05~~ 5115.03 of the Revised Code regarding income and resource requirements for the disability financial assistance program, the director shall determine what payments shall be regarded or disregarded. In making this determination, the director shall consider:

- (1) The source of the payment;
- (2) The amount of the payment;
- (3) The purpose for which the payment was made;
- (4) Whether regarding the payment as income would be in the public interest;

- (5) Whether treating the payment as income would be detrimental to any of the programs administered in whole or in part by the department of job and family services and whether such determination would jeopardize the receipt of any federal grant or payment by the state or any receipt of aid under Chapter 5107. of the Revised Code.

(B) Any recipient of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, whose money payment is discontinued as the result of a general increase in old-age, survivors, and disability insurance benefits under such act, shall remain a recipient for the purpose of receiving medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first; ~~prevention~~, all of the following:

(1) Prevention retention, and contingency; ~~medicaid~~

(2) Medicaid; ~~and disability~~

(3) Disability financial assistance; ~~general~~;

(4) Disability medical assistance;

(5) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., 5111., or 5115. of the Revised Code, the director of job and family services shall furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A or under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)(1) The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of

state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.20. (A) As used in this section of the Revised Code:

(1) "Local area" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (A) of section 6301.01 of the Revised Code;

(2) "Chief elected official" has the same meaning as in section 101 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, and division (F) of section 6301.01 of the Revised Code;

(3) "Grantee" means the chief elected officials of a local area.

(B) The director of job and family services shall enter into one or more written grant agreements with each local area under which financial assistance is awarded for workforce development activities included in the agreements. A grant agreement shall establish the terms and conditions governing the accountability for and use of grants provided by the department of job and family services to the grantee for the administration of workforce development activities funded under the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended.

(C) In the case of a local area comprised of multiple political subdivisions, nothing in this section shall preclude the chief elected officials

of a local area from entering into an agreement among themselves to distribute any liability for activities of the local area, but such an agreement shall not be binding on the department of job and family services.

(D) The written grant agreement entered into under division (B) of this section shall comply with all applicable federal and state laws governing workforce development activities. All federal conditions and restrictions that apply to the use of grants received by the department of job and family services shall apply to the use of the grants received by the local areas from the department.

(E) A written grant agreement entered into under division (B) of this section shall:

(1) Identify the chief elected officials for the local area;

(2) Provide for the incorporation of the local workforce development plan;

(3) Include the chief elected officials' assurance that the local area and any subgrantee or contractor of the local area will do all of the following:

(a) Ensure that the financial assistance awarded under the grant agreement is used, and the workforce development duties included in the agreement are performed, in accordance with requirements established by the department or any of the following: federal or state law, the state plan for receipt of federal financial participation, grant agreements between the department and a federal agency, or executive orders.

(b) Ensure that the chief elected officials and any subgrantee or contractor of the local area utilize a financial management system and other accountability mechanisms that meet requirements the department establishes;

(c) Require the chief elected officials and any subgrantee or contractor of the local area to do both of the following:

(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the grant agreement to ensure that each entity uses the payment in accordance with requirements for the workforce development duties included in the agreement;

(ii) Take action to recover payments that are not used in accordance with the requirements for the workforce development duties that are included in the agreement.

(d) Require the chief elected officials of a local area to promptly reimburse the department the amount that represents the amount a local area is responsible for of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(e) Require chief elected officials of a local area to take prompt corrective action if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a workforce development duty included in the agreement determines compliance has not been achieved;

(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly;

(5) Provide for annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code.

(6) Establish the method of amending or terminating the grant agreement and an expedited process for correcting terms or conditions of the agreement that the director and the chief elected officials agree are erroneous.

(7) Provide for the department of job and family services to award financial assistance for the workforce development duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (F) of this section.

(8) Determine the dates that the grant agreement begins and ends.

(F)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing grant agreements. The director shall adopt the rules as if they were internal management rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements and may do any of the following:

(a) Govern the establishment of consolidated funding allocations and other allocations;

(b) Specify allowable uses of financial assistance awarded under the agreements;

(c) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department or any of the following: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal entity, or executive order.

(2) A requirement of a grant agreement established by a rule adopted under this division is applicable to a grant agreement without having to be restated in the grant agreement.

Sec. 5101.201. The director of job and family services may enter into

agreements with one-stop operators and one-stop partners for the purpose of implementing the requirements of section 121 of the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801.

Sec. 5101.21. (A) As used in ~~sections 5101.21 to 5101.24 of the Revised Code, "workforce development agency" and "workforce development activity" have the same meanings as in section 6301.01 of the Revised Code~~ this section, "county signer" means all of the following:

(1) A board of county commissioners;

(2) A county children services board appointed under section 5153.03 of the Revised Code if required by division (B) of this section to enter into a fiscal agreement;

(3) A county elected official that is a child support enforcement agency if required by division (B) of this section to enter into a fiscal agreement.

~~(B) The director of job and family services shall may enter into a one or more written partnership agreement fiscal agreements with each board boards of county commissioners:~~

~~(C)(1) Each partnership agreement shall include provisions regarding the administration and design of all of the following:~~

~~(a) The Ohio works first program established under Chapter 5107. of the Revised Code;~~

~~(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;~~

~~(c) Duties assumed by a county department of job and family services pursuant to an agreement entered into under section 329.05 of the Revised Code;~~

~~(d) Any other county department of job and family services' duties that the director and board mutually agree to include in the agreement;~~

~~(e) If, for the purpose of Chapter 6301. of the Revised Code, the county the board serves is a local area defined in division (A)(2) or (3) of section 6301.01 of the Revised Code, workforce development activities provided by the workforce development agency established or designated for the local area.~~

~~(2) Each partnership agreement may include provisions regarding the administration and design of the duties of child support enforcement agencies and public children services agencies included in a plan of cooperation entered into under section 307.983 of the Revised Code that the director and board mutually agree to include in the agreement.~~

~~(D) Family services duties and workforce development activities included in a partnership agreement shall be vested in the board of county commissioners. The agreement shall comply with federal statutes and~~

~~regulations, state statutes, and, except as provided in division (D)(9) of this section, state rules governing the family services duties or workforce development activities included in the agreement.~~

A partnership under which financial assistance is awarded for family services duties included in the agreements. Boards of county commissioners shall select which family services duties to include in a fiscal agreement. If a board of county commissioners elects to include family services duties of a public children services agency and a county children services board appointed under section 5153.03 of the Revised Code serves as the county's public children services agency, the board of county commissioners and county children services board shall jointly enter into the fiscal agreement with the director. If a board of county commissioners elects to include family services duties of a child support enforcement agency and the entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or designated under section 307.981 of the Revised Code as the county's child support enforcement agency is an elected official of the county, the board of county commissioners and county elected official shall jointly enter into the fiscal agreement with the director. A fiscal agreement shall include responsibilities that the state department of job and family services, county family services agencies administering family services duties included in the agreement, and workforce development agencies administering workforce development activities included in the agreement must satisfy. The agreement shall establish, specify, or provide for do all of the following:

(1) ~~Requirements governing the administration and design of, and county family services agencies' or workforce development agencies' cooperation to enhance, family services duties or workforce development activities included in the agreement~~ Specify the family services duties included in the agreement and the private and government entities designated under section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties;

(2) ~~Outcomes that county family services agencies or workforce development agencies are expected to achieve from the administration and design of family services duties or workforce development activities included in the agreement and assistance, services, and technical support the state department will provide the county family services agencies or workforce development agencies to aid the agencies in achieving the expected outcomes~~ Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of

the award established by rules adopted under division (D) of this section;

~~(3) Performance and other administrative standards county family services agencies or workforce development agencies are required to meet in the design, administration, and outcomes of family services duties or workforce development activities included in the agreement and assistance, services, and technical support the state department will provide the county family services agencies or workforce development agencies to aid the agencies in meeting the performance and other administrative standards~~
Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement;

~~(4) Criteria and methodology the state department will use to evaluate whether expected outcomes are achieved and performance and other administrative standards are met and county family services agencies or workforce development agencies will use to evaluate whether the state department is providing agreed upon assistance, services, and technical support~~
Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly;

~~(5) Annual~~ Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code;

~~(6) The state~~ Include the assurance of each county signer that the county signer will do all of the following:

(a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(b) Ensure that the board and county family services agencies utilize a financial management system and other accountability mechanisms for the financial assistance awarded under the agreement that meet requirements the department establishes;

(c) Require the county family services agencies to do both of the

following:

(i) Monitor all private and government entities that receive a payment from financial assistance awarded under the agreement to ensure that each entity uses the payment in accordance with requirements for the family services duties included in the agreement;

(ii) Take action to recover payments that are not used in accordance with the requirements for the family services duties included in the agreement.

(d) Require county family services agencies to promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(e) Require county family services agencies to take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty included in the agreement determines compliance has not been achieved;

(f) If the department establishes a consolidated funding allocation for two or more family services duties included in the agreement, require the county family services agencies to use funds available in the consolidated funding allocation only for the purpose for which the funds are appropriated.

(7) Provide for the department taking action pursuant to division (C) of section 5101.24 of the Revised Code if authorized by division (B)(1), (2), ~~or~~ (3), or (4) of that section applies;

~~(7) The funding of family services duties or workforce development activities included in the agreement and whether the state department will establish a consolidated funding allocation under division (E) of this section. The agreement shall either specify the amount of payments to be made for the family services duties or workforce development activities included in the agreement or the method that will be used to determine the amount of payments.~~

~~(8) Audits~~ Provide for timely audits required by federal statutes ~~and regulations~~ and state law and ~~requirements for~~ require prompt release of audit findings and prompt action to correct problems identified in an audit;

~~(9) Which, if any, of the state department's rules will be waived so that a policy provided for in the agreement may be implemented~~ Comply with all of the requirements for the family services duties that are included in the

agreement and have been established by the department, federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(10) The Provide for dispute resolution procedures in accordance with section 5101.24 of the Revised Code;

(11) Establish the method of amending or terminating the agreement and an expedited process for correcting terms or conditions of the agreement that the director and board of each county commissioners signer agree are erroneous;

~~(11) Dispute resolution procedures for anticipated and unanticipated disputes. The agreement may establish different dispute resolution procedures for different types of disputes. Dispute resolution procedures may include negotiation, mediation, arbitration, adjudication conducted by a hearing officer or fact-finding panel, and other procedures.~~

(12) The date the agreement is to commence or Except as provided in rules adopted under division (D) of this section, begin on the first day of July of an odd-numbered year and end on the last day of June of the next odd-numbered year. An agreement may not commence before it is entered into nor end later than the last day of the state fiscal biennium for which it is entered into.

(13) If workforce development activities are included in the agreement, all of the following:

(a) The workforce development plan prepared under section 6301.07 of the Revised Code to be attached to and incorporated into the agreement;

(b) A description of the services, and a list of the core services, provided in the one-stop system for workforce development activities the county served by the board participates in under section 6301.06 of the Revised Code to be included in the agreement;

(c) If the county served by the board of county commissioners is in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code, the method and manner by which the board of county commissioners of each county and the chief elected official of a municipal corporation in the local area shall coordinate workforce development activities and resolve disagreements concerning either of the following:

(i) Choices concerning specifically who to appoint to the workforce policy board created under section 6301.06 of the Revised Code, within the criteria for membership set forth in that section;

~~(ii) Whether a member of the workforce policy board is performing satisfactorily for purposes of serving at the pleasure of the chief elected officials of the local area.~~

~~(14) Other provisions determined necessary by the state department, board, county family services agency, and workforce development agency.~~

~~(E)(C) The state department shall make payments authorized by a partnership fiscal agreement on vouchers it prepares and may include any funds appropriated or allocated to it for carrying out family services duties or workforce development activities vested in the board of county commissioners under included in the agreement, including funds for personal services and maintenance.~~

~~(F)(1) To the extent practicable and not in conflict with federal statutes or regulations, state law, or an appropriation made by the general assembly, the director may establish a consolidated funding allocation for any of the following:~~

~~(a) Two or more family services duties included in the agreement;~~

~~(b) Two or more workforce development activities included in the agreement;~~

~~(c) One or more family services duties and workforce development activities included in the agreement.~~

~~(2) The consolidated funding allocation may be for either of the following:~~

~~(a) A county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code;~~

~~(b) Two or more counties, or a municipal corporation and one or more counties, in the type of local area defined in division (A)(3) of section 6301.01 of the Revised Code that are coordinating and integrating workforce development activities in the local area.~~

~~(3) A county family services agency or workforce development agency shall use funds available in a consolidated funding allocation only for the purpose for which the funds were appropriated.~~

(D)(1) The director shall adopt rules in accordance with section 111.15 of the Revised Code governing fiscal agreements. The director shall adopt the rules as if they were internal management rules. Before adopting the rules, the director shall give the public an opportunity to review and comment on the proposed rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded under the agreements. The rules also shall establish terms and conditions under which an agreement may be entered into after the first day of July of an odd-numbered year. The rules may do any or all of the following:

(a) Govern the establishment of consolidated funding allocations and specify the time period for which a consolidated funding allocation is to be provided if the effective date of the agreement is after the first day of July of an odd-numbered year, which may include a time period before the effective date of the agreement;

(b) Govern the establishment of other allocations;

(c) Specify allowable uses of financial assistance awarded under the agreements;

(d) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of financial assistance awarded under the agreements and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties included in the agreements and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

(2) A requirement of a fiscal agreement established by a rule adopted under this division is applicable to a fiscal agreement without having to be restated in the fiscal agreement.

Sec. 5101.211. (A) Except as provided in division (B) of this section, the director of job and family services may provide for a fiscal agreement entered into under section 5101.21 of the Revised Code to have a retroactive effective date of the first day of July of an odd-numbered year if both of the following are the case:

(1) The agreement is entered into after that date and before the last day of that July.

(2) The board of county commissioners requests the retroactive effective date and provides the director good cause satisfactory to the director for the reason the agreement was not entered into on or before the first day of that July.

(B) The director may provide for a fiscal agreement to have a retroactive effective date of July 1, 2003, if both of the following are the case:

(1) The agreement is entered into after July 1, 2003, and before August 29, 2003.

(2) The board of county commissioners requests the retroactive effective date.

Sec. 5101.212. The department of job and family services shall publish in a manner accessible to the public all of the following that concern family

services duties included in fiscal agreements entered into under section 5101.21 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor. The department may publish the materials electronically or otherwise.

Sec. 5101.213. (A) Except as provided in section 5101.211 of the Revised Code, if a fiscal agreement under section 5101.21 of the Revised Code between the director of job and family services and a board of county commissioners is not in effect, all of the following apply:

(1) The department of job and family services shall award to the county the board serves financial assistance for family services duties in accordance with a methodology for determining the amount of the award established by rules adopted under division (B) of this section.

(2) The financial assistance may be provided in the form of allocations, cash draws, reimbursements, and property but may not be made in the form of a consolidated funding allocation.

(3) The award of the financial assistance is subject to the availability of federal funds and appropriations made by the general assembly.

(4) The county family services agencies performing the family services duties for which the financial assistance is awarded shall do all of the following:

(a) Use the financial assistance, and perform the family services duties, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the duties: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor;

(b) Utilize a financial management system and other accountability mechanisms for the financial assistance that meet requirements the department establishes;

(c) Monitor all private and government entities that receive a payment from the financial assistance to ensure that each entity uses the payment in accordance with requirements for the family services duties and take action to recover payments that are not used in accordance with the requirements for the family services duties;

(d) Promptly reimburse the department the amount that represents the amount an agency is responsible for, pursuant to action the department takes under division (C) of section 5101.24 of the Revised Code, of funds the department pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation,

or other sanction or penalty;

(e) Take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if the department, auditor of state, federal agency, or other entity authorized by federal or state law to determine compliance with requirements for a family services duty determines compliance has not been achieved.

(B) The director shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules. Before adopting the rules, the director shall give the public an opportunity to review and comment on the proposed rules. The rules shall establish methodologies to be used to determine the amount of financial assistance to be awarded and may do any or all of the following:

(1) Govern the establishment of funding allocations;

(2) Specify allowable uses of financial assistance the department awards under this section;

(3) Establish reporting, cash management, audit, and other requirements the director determines are necessary to provide accountability for the use of the financial assistance and determine compliance with requirements established by the department, a federal or state law, or any of the following that concern the family services duties for which the financial assistance is awarded: state plans for receipt of federal financial participation, grant agreements between the department and a federal entity, and executive orders issued by the governor.

~~Sec. 5101.21~~ 5101.214. The director of job and family services may enter into a written agreement with one or more state agencies, as defined in section 117.01 of the Revised Code, and state universities and colleges to assist in the coordination, provision, or enhancement of the family services duties of a county family services agency or the workforce development activities of a workforce development agency. The director also may enter into written agreements or contracts with, or issue grants to, private and government entities under which funds are provided for the enhancement or innovation of family services duties or workforce development activities on the state or local level. ~~The terms of an agreement, contract, or grant under this section may be incorporated into a partnership agreement the director enters into with a board of county commissioners under section 5101.21 or with the chief elected official of a municipal corporation under section 5101.213 of the Revised Code, if the director and board or chief elected official and state agency, state university or college, or private or government entity agree.~~

The director may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.

Sec. ~~5101.212~~ 5101.215. If the director of job and family services enters into an agreement or contracts with, or issues a grant to, a religious organization under section ~~5101.214~~ 5101.214 of the Revised Code, the religious organization shall comply with section 104 of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996 (P.L. 104-193).

Sec. 5101.216. The director of job and family services may enter into one or more written operational agreements with boards of county commissioners to do one or more of the following regarding family services duties:

(A) Provide for the director to amend or rescind a rule the director previously adopted;

(B) Provide for the director to modify procedures or establish alternative procedures to accommodate special circumstances in a county;

(C) Provide for the director and board to jointly identify operational problems of mutual concern and develop a joint plan to address the problems;

(D) Establish a framework for the director and board to modify the use of existing resources in a manner that is beneficial to the department of job and family services and the county that the board serves and improves family services duties for the recipients of the services.

Sec. 5101.22. The department of job and family services may establish performance and other administrative standards for the administration and outcomes of family services duties ~~and workforce development activities~~ and determine at intervals the department decides the degree to which a county family services agency ~~or workforce development agency~~ complies with a performance or other administrative standard. The department may use statistical sampling, performance audits, case reviews, or other methods it determines necessary and appropriate to determine compliance with performance and administrative standards.

~~A performance or other administrative standard established under this section for a family service duty or workforce development activity does not apply to a county family services agency or workforce development agency administering the duty if a different performance or administrative standard is specified for the agency's administration of the duty or activity pursuant to a partnership agreement entered into under section 5101.21 or 5101.213 of the Revised Code.~~

Sec. 5101.221. (A) Except as provided by division (C) of this section, if

the department of job and family services determines that a county family services agency has failed to comply with a performance or other administrative standard established under section 5101.22 of the Revised Code or by federal law for the administration or outcome of a family services duty, the department shall require the agency to develop, submit to the department for approval, and comply with a corrective action plan.

(B) If a county family services agency fails to develop, submit to the department, or comply with a corrective action plan under division (A) of this section, or the department disapproves the agency's corrective action plan, the department may require the agency to develop, submit to the department for approval, and comply with a corrective action plan that requires the agency to commit existing resources to the plan.

(C) The department may not require a county family services agency to take action under this section for failure to comply with a performance or other administrative standard established for an incentive awarded by the department. Instead, the department may require a county family services agency that fails to comply with that kind of performance or other administrative standard to take action in accordance with rules adopted by the department governing the standard.

(D) At the request of a county family services agency, the department shall assist the agency with the development of a corrective action plan under this section and provide the agency technical assistance in the implementation of the plan.

Sec. 5101.222. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code to implement sections 5101.22 to 5101.222 of the Revised Code. If the director adopts the rules, the director shall adopt the rules as if they were internal management rules.

Sec. 5101.24. (A) As used in this section, "responsible entity" means ~~the following:~~

~~(1) If the family services duty or workforce development activity involved is included in a partnership agreement a board of county commissioners and the director of job and family services enters into under section 5101.21 of the Revised Code, the board regardless of the fact that or a county family services agency performs the family services duty or a workforce development agency performs the workforce development activity.~~

~~(2) If the family services duty or workforce development activity involved is not included in a partnership agreement, the county family services agency or workforce development agency, whichever the director~~

of job and family services determines is appropriate to take action against under division (C) of this section.

(B) The Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services may take action under division (C) of this section against the responsible entity if the department determines any of the following ~~apply to the county family services agency performing the family services duty or workforce development agency providing the workforce development activity~~ are the case:

(1) The agency fails to meet a performance standard specified in a partnership agreement entered into under section 5101.21 or established A requirement of a fiscal agreement entered into under section 5101.21 of the Revised Code that includes the family services duty, including a requirement for fiscal agreements established by rules adopted under that section, is not complied with;

(2) A county family services agency fails to develop, submit to the department, or comply with a corrective action plan under division (B) of section 5101.221 of the Revised Code, or the department disapproves the agency's corrective action plan developed under division (B) of section 5101.22 5101.221 of the Revised Code for the duty or activity;

(2) The agency fails to comply with a (3) A requirement for the family services duty established by the department or any of the following is not complied with: a federal statute or regulations, state statute, or a department rule for the duty or activity law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order issued by the governor;

(3)(4) The agency responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit or finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the family services duty or activity.

(C) The department may take one or more of the following actions against the responsible entity if when authorized by division (B)(1), (2), or (3), or (4) of this section applies:

(1) Require the responsible entity to submit to and comply with a corrective action plan pursuant to a time schedule specified by the department; The corrective action plan shall be established or approved by

the department and shall not require a county family services agency to commit resources to the plan.

(2) Require the responsible entity to comply with a corrective action plan pursuant to a time schedule specified by the department. The corrective action plan shall be established or approved by the department and require a county family services agency to commit to the plan existing resources identified by the agency.

(3) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the final amount the department pays to the federal government or another entity that represents the amount the ~~agency~~ responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the final amount that represents the amount the ~~agency~~ responsible entity is responsible for of an adverse audit ~~or~~ finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the final amount that represents the amount the responsible entity is responsible for of an adverse audit finding or adverse quality control finding.

~~(3)(4) Impose a financial or an administrative sanction or adverse audit~~ issued by the department against the responsible entity. A sanction may be increased if the department has previously taken action against the responsible entity under this division.

~~(4)(5) Perform, or contract with a government or private entity for the entity to perform, the family services duty or workforce development activity~~ until the department is satisfied that the responsible entity ensures that the duty ~~or activity~~ will be performed satisfactorily. If the department performs or contracts with an entity to perform a family services duty ~~or workforce development activity~~ under division (C)(4)(5) of this section, the department may do either or both of the following:

(a) Spend funds in the county treasury appropriated by the board of county commissioners for the duty ~~or activity~~;

(b) Withhold funds allocated or reimbursements due to the responsible entity for the duty ~~or activity~~ and spend the funds for the duty ~~or activity~~.

~~(5)(6) Request that the attorney general bring mandamus proceedings to~~

compel the responsible entity to take or cease the action that causes division (B)(1), (2), ~~or (3)~~, or (4) of this section to apply. The attorney general shall bring mandamus proceedings in the Franklin county court of appeals at the department's request.

(7) If the department takes action under this division because of division (B)(3) of this section, temporarily withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(D) If the department ~~decides~~ proposes to take action against the responsible entity under division (C) of this section, the department shall notify the responsible entity and county auditor. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail.

The ~~Except as provided by division (E) of this section,~~ the responsible entity may request an administrative review of a proposed action, ~~other than a proposed action under division (C)(5) of this section,~~ by sending a written request to the department not later than in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

(3) In the case of a proposed action under division (C)(1) of this section, the responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the

department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request. ~~The or extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible entity shall attempt an informal opportunity to resolve any dispute during that fifteen-day or extended period.~~

~~(2)(4)~~ In the case of a proposed action under division (C)(2), (3), (4), (5), or (7) of this section, ~~forty-five~~ the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. ~~The administrative review shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government or another entity under division (C)(2) of this section. The~~ If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), (4), (5), or (7) of this section for thirty calendar days following the day it receives the request or extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible entity shall attempt an informal opportunity to resolve any dispute within sixty days during that thirty-day or extended period.

~~(3) In the case of a proposed action under division (C)(3) or (4) of this section, forty-five days after the department mails the notice to the responsible entity. The department and responsible entity shall attempt to resolve any dispute within sixty days.~~

~~If the department and responsible entity fail to resolve any dispute within the required time, the department shall conduct a hearing in accordance with Chapter 119. of the Revised Code, except that the department, notwithstanding section 119.07 of the Revised Code, is not required to schedule the hearing within fifteen days of the responsible entity's request.~~

~~(E)(5)~~ If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the fifteen- or thirty-day period, the director of job and family services and representative of the responsible entity may enter into a written agreement extending the time period for attempting an informal resolution of the dispute under division (D)(3) or (4) of this section.

~~(6) In the case of a proposed action under division (C)(3) of this section, the responsible entity may not include in its request disputes over a finding,~~

final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or entity other than the department.

(7) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity.

(8) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the time provided by division (D)(3), (4), or (5) of this section, the director shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees and one director or other representative of the type of county family services agency that is responsible for the kind of family services duty that is the subject of the dispute and serves a different county than the county served by the responsible entity. No individual involved in the department's proposal to take action against the responsible entity may serve on the review panel. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(3) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(3) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

(9) After finishing an administrative review, an administrative review panel appointed under division (D)(8) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity.

(10) The director's approval, modification, or disapproval under division (D)(9) of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

- (1) An action taken under division (C)(6) of this section;
- (2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(3) of this section if the federal government, auditor of state, or entity other than the department has identified the county family services agency as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to a county family services agency that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5101.241. (A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.20 of the Revised Code that includes the workforce development activity, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A performance standard for the workforce development activity established by the federal government or the department is not met;

(3) A requirement for the workforce development activity established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order;

(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal

financial participation, or other sanction or penalty regarding the workforce development activity.

(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;

(2) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.

(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity.

(4) Perform or contract with a government or private entity for the entity to perform the workforce development activity until the department is satisfied that the responsible entity ensures that the activity will be performed to the department's satisfaction. If the department performs or contracts with an entity to perform the workforce development activity under division (C)(4) of this section, the department may withhold funds allocated to or reimbursements due to the responsible entity for the activity and use those funds to implement division (C)(4) of this section.

(5) Request the attorney general to bring mandamus proceedings to compel the responsible entity to take or cease the actions listed in division

(B) of this section. The attorney general shall bring any mandamus proceedings in the Franklin county court of appeals at the department's request.

(6) If the department takes action under this division because of division (B)(3) of this section, withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(D) The department shall notify the responsible entity and the appropriate county auditor when the department proposes to take action under division (C) of this section. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

(3) In the case of a proposed action under division (C)(1) of this section, the responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request to allow a representative of the department and a representative

of the responsible entity an informal opportunity to resolve any dispute during that fifteen-day period.

(4) In the case of a proposed action under division (C)(2), (3), or (4) of this section, the responsible entity shall have thirty calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), or (4) of this section for thirty calendar days following the day it receives the request to allow a representative of the department and a representative of the responsible entity an informal opportunity to resolve any dispute during that thirty-day period.

(5) In the case of a proposed action under division (C)(2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department.

(6) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible entity.

(7) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute, the director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

(8) After finishing an administrative review, an administrative review panel appointed under division (D)(7) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the

recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible entity.

(9) The director's approval, modification, or disapproval under division (D)(8) of this section shall be final and binding on the responsible entity and shall not be subject to further departmental review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(5) or (6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5101.242. The department of job and family services may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against a responsible entity to recover any funds that the department determines the responsible entity owes the department for actions taken under division (C)(2), (3), (4), or (5) of section 5101.24 or 5101.241 of the Revised Code.

Sec. 5101.243. The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code establishing reporting requirements for family services duties and workforce development activities. If the director adopts the rules, the director shall adopt the rules as if they were internal management rules and, before adopting the rules, give the public an opportunity to review and comment on the proposed rules.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor, regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance provided under a public assistance program" means medical assistance provided under the programs established under sections 5101.49, 5101.50 to 5101.503, and 5101.51 to 5101.5110, Chapters 5111. and 5115., or any other provision of the Revised Code.

(F) "Public assistance" means financial assistance, medical assistance, or social services provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., 5111., or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

~~(F)~~(G) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.27. (A) Except as permitted by this section, section 5101.28 or 5101.29 of the Revised Code, or the rules adopted under division (A) of section 5101.30 of the Revised Code, or required by federal law, no person or government entity shall solicit, disclose, receive, use, or knowingly permit, or participate in the use of any information regarding a public assistance recipient for any purpose not directly connected with the

administration of a public assistance program.

(B)(4) To the extent permitted by federal law, the department of job and family services and county agencies shall ~~release~~ do both of the following:

(1) Release information regarding a public assistance recipient for purposes directly connected to the administration of the program to a government entity responsible for administering a that public assistance program ~~or any other state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.~~

(2) ~~To the extent permitted by federal law, the department and county agencies shall provide~~ Provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of a that public assistance program.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the department and county agencies shall provide access to information regarding a public assistance recipient to all of the following:

(1) The recipient;

(2) The authorized representative, ~~as defined in rules adopted under section 5101.30 of the Revised Code, of the recipient;~~

(3) The ~~parent or legal~~ guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization that complies with section 5101.271 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may ~~release~~ do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written ~~consent that specifically identifies the persons or government entities to which the information may be released.~~

~~The~~ the authorization that complies with section 5101.271 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information

~~only to the persons or government entities specified in the document evidencing consent. Consent may be time limited or ongoing, at the discretion of the individual giving it, and may be rescinded at any time; however, an individual cannot rescind consent retroactively. The document evidencing consent must state that consent may be rescinded in accordance with the authorization. The department or county agency shall provide, at no cost, a copy of each written authorization to the individual who signed it.~~

~~(F) The department or a county agency may release information under this division (D) of this section concerning a the receipt of medical assistance provided under Chapter 5111. of the Revised Code a public assistance program only if both all of the following conditions are the case met:~~

~~(1) The release of information is for purposes directly connected to the administration of programs created under Chapter 5111. of the Revised Code or services provision of medical assistance provided under programs created under that chapter a public assistance program;~~

~~(2) The information is released to persons or government entities that are subject to standards of confidentiality and safeguarding information substantially comparable to those established for programs created under Chapter 5111. of the Revised Code medical assistance provided under a public assistance program;~~

~~(3) The department or county agency has obtained an authorization consistent with section 5101.271 of the Revised Code.~~

~~(G) Information concerning the receipt of medical assistance provided under a public assistance program may be released only if the release complies with this section and rules adopted by the department pursuant to section 5101.30 of the Revised Code or, if more restrictive, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, and regulations adopted by the United States department of health and human services to implement the act.~~

~~(H) The department of job and family services may adopt rules defining "authorized representative" for purposes of division (C)(2) of this section.~~

~~Sec. 5101.271. (A) For the purposes of section 5101.27 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:~~

~~(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;~~

~~(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;~~

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for public assistance cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance program.

(B) When an individual requests information pursuant to section 5101.27 of the Revised Code regarding the individual's receipt of public assistance and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

~~Sec. 5101.28. (A) The department of job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share~~ (1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department, or county agencies, and law enforcement agencies agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is either of the following:

~~(1) A a fugitive felon;~~

~~(2) Violating felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.~~

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) The To the extent permitted by federal law, the department and county agencies shall provide information, except information directly related to the receipt of medical assistance or medical services, regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by ~~or~~ federal law to conduct an audit of or similar activity involving a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons and probation and parole violators apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

Sec. 5101.35. (A) As used in this section:

(1) "Agency" means the following entities that administer a family services program:

- (a) The department of job and family services;
- (b) A county department of job and family services;
- (c) A public children services agency;

(d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section 173.35, 5101.141, 5101.46, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance

provided under section 5101.46 of the Revised Code by the department of mental health, the department of mental retardation and developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of mental retardation and developmental disabilities.

(B) Except as provided ~~in~~ by division (G) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be tape-recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county

in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing ~~in~~ an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an

interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.36. Any application for public assistance gives a right of subrogation to the department of job and family services for any workers' compensation benefits payable to a person who is subject to a support order, as defined in section 3119.01 of the Revised Code, on behalf of the applicant, to the extent of any public assistance payments made on the applicant's behalf. If the director of job and family services, in consultation with a child support enforcement agency and the administrator of the bureau of workers' compensation, determines that a person responsible for support payments to a recipient of public assistance is receiving workers' compensation, the director shall notify the administrator of the amount of the benefit to be paid to the department of job and family services.

For purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code; Ohio works first provided under Chapter 5107. of the Revised Code; prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code; ~~or~~ disability financial assistance provided under Chapter 5115. of the Revised Code; or disability medical assistance provided under Chapter 5115. of the Revised Code.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of mental retardation and developmental disabilities, a county board of mental retardation and developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and

mental retardation and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of mental retardation and developmental disabilities.

(2) Each state department shall, subject to the approval of the controlling board, develop formulas for the distribution of their Title XX appropriations to their respective local agencies. The formulas shall take into account the total population of the area that is served by the agency, the percentage of the population in the area that falls below the federal poverty guidelines, and the agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend no more than three per cent of its Title XX appropriation for state administrative costs. Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation for local administrative costs.

(4) The department of job and family services shall expend no more than two per cent of its Title XX appropriation for the training of the following:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments'

respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the report available for public inspection.

The departments of mental health and mental retardation and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Not less often than every two years, the departments of job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.

(G) Any of the three state departments and their respective local

agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a provider of social services if there are adverse findings in an audit that are the responsibility of the provider. The amount of any adverse findings shall not be reimbursed with Title XX funds. The cost of conducting an audit shall be reimbursed under a subsequent or amended Title XX contract with the provider.

(H) If federal funds received by the department of job and family services for use under Chapters 5107. and 5108. of the Revised Code are transferred by the controlling board for use in providing social services under this section, the distribution and use of the funds are not subject to the provisions of division (C) of this section. The department may do one or both of the following with the funds:

(1) Distribute the funds to the county departments of job and family services;

(2) Use the funds for services that benefit individuals eligible for services consistent with the principles of Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(I) Except for the authority to adopt rules under division (J) of this section as necessary to carry out this division, this section does not apply to any distribution by the department of job and family services of funds for reimbursement of allowable Title XX expenditures when the funds for the reimbursement are received from a federal funding source other than Title XX.

(J) The department of job and family services may adopt rules necessary to carry out the purposes of this section. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code, unless they are internal management rules governing fiscal and administrative matters. Internal management rules may be adopted in accordance with section 111.15 of the Revised Code.

Sec. 5101.58. As used in this section and section 5101.59 of the Revised Code, "public assistance" means aid provided under Chapter 5111. or 5115. of the Revised Code and participation in the Ohio works first program established under Chapter 5107. of the Revised Code.

The acceptance of public assistance gives a right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical services and care arising out of injury, disease, or disability of the public

assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, the entire amount of any settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical services or care through a managed care organization, the department's or county department's claim shall not exceed the amount of medical expenses paid by the departments on behalf of the recipient or participant. In the case of a recipient or participant who receives medical services or care through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical services or care rendered to the recipient or participant, even if that amount is more than the amount the departments pay to the managed care organization for the recipient's or participant's medical services or care. Any settlement, compromise, judgment, or award that excludes the cost of medical services or care shall not preclude the departments from enforcing their rights under this section.

Prior to initiating any recovery action, the recipient or participant, or the recipient's or participant's representative, shall disclose the identity of any third party against whom the recipient or participant has or may have a right of recovery. Disclosure shall be made to the department of job and family services when medical expenses have been paid pursuant to Chapter 5111. or 5115. of the Revised Code. Disclosure shall be made to both the department of job and family services and the appropriate county department of job and family services when medical expenses have been paid pursuant to Chapter 5115. of the Revised Code. No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments notice and a reasonable opportunity to perfect their rights of recovery. If the departments are not given appropriate notice, the recipient or participant is liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments. The departments shall be permitted to enforce their recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of job and family services or county department of job and family services as soon as

the third party is notified in writing of the valid claims for recovery under this section.

The right of recovery does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources. Attorney fees and costs or other expenses in securing any recovery shall not be assessed against any claims of the departments.

To enforce their recovery rights, the departments may do any of the following:

(A) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(B) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical services and care arising out of the recipient's or participant's injury, disease, or disability;

(C) Initiate legal proceedings in conjunction with the injured, diseased, or disabled recipient or participant or the recipient's or participant's legal representative.

Recovery rights created by this section may be enforced separately or jointly by the department of job and family services and the county department of job and family services.

The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and ~~5115.13~~ 5115.07 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code the department considers necessary to implement this section.

Sec. 5101.59. (A) The application for or acceptance of public assistance constitutes an automatic assignment of certain rights to the department of job and family services. This assignment includes the rights of the applicant, recipient, or participant and also the rights of any other member of the assistance group for whom the applicant, recipient, or participant can legally make an assignment.

Pursuant to this section, the applicant, recipient, or participant assigns to

the department any rights to medical support available to the applicant, recipient, or participant or for other members of the assistance group under an order of a court or administrative agency, and any rights to payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant, recipient, participant, or other members of the assistance group.

Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section are directly reimbursable to the department by liable third parties.

(B) Refusal by the applicant, recipient, or participant to cooperate in obtaining medical support and payments for self or any other member of the assistance group renders the applicant, recipient, or participant ineligible for public assistance, unless cooperation is waived by the department. Eligibility shall continue for any individual who cannot legally assign the individual's own rights and who would have been eligible for public assistance but for the refusal to assign the individual's rights or to cooperate as required by this section by another person legally able to assign the individual's rights.

If the applicant, recipient, or participant or any member of the assistance group becomes ineligible for public assistance, the department shall restore to the applicant, recipient, participant, or member of the assistance group any future rights to benefits assigned under this section.

The rights of assignment given to the department under this section do not include rights to support assigned under section 5107.20 or ~~5115.13~~ 5115.07 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules that specify what constitutes cooperating with efforts to obtain medical support and payments and when the cooperation requirement may be waived.

Sec. 5101.75. (A) As used in sections 5101.75, 5101.751, 5101.752, 5101.753, and 5101.754 of the Revised Code:

(1) "Alternative source of long-term care" includes a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under Chapter 3722. of the Revised Code, home and community-based services, and a nursing home licensed under Chapter 3721. of the Revised Code that is not a nursing facility.

(2) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(3) "Nursing facility" has the same meaning as in section 5111.20 of the

Revised Code.

(4) "Representative" means a person acting on behalf of an applicant for admission to a nursing facility. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant.

(5) "Third-party payment source" means a third-party payer as defined in section 3901.38 of the Revised Code or medicaid.

(B) Effective July 1, 1994, the department of job and family services may assess a person applying or intending to apply for admission to a nursing facility who is not an applicant for or recipient of medicaid to determine whether the person is in need of nursing facility services and whether an alternative source of long-term care is more appropriate for the person in meeting the person's physical, mental, and psychosocial needs than admission to the facility to which the person has applied.

Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons certified by the department under section 5101.752 of the Revised Code. The department or designated agency shall make a recommendation on the basis of the assessment and, not later than the time the assessment is required to be performed under division (D) of this section, give the person assessed written notice of the recommendation, which shall explain the basis for the recommendation. If the department or designated agency determines pursuant to an assessment that an alternative source of long-term care is more appropriate for the person than admission to the facility to which the person has applied, the department or designated agency shall include in the notice possible sources of financial assistance for the alternative source of long-term care. If the department or designated agency has been informed that the person has a representative, it shall give the notice to the representative.

(C) A person is not required to be assessed under division (B) of this

section if any of the following apply:

(1) The circumstances specified by rules adopted under division (I) of this section exist.

(2) The person is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code.

(3) The person has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult-care facility licensed under Chapter 3722. of the Revised Code, or an independent living arrangement;

(4) The person is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The person is to receive care in the nursing facility for not more than fourteen days in order to provide temporary relief to the person's primary caregiver and the nursing facility notifies the department of the person's admittance not later than twenty-four hours after admitting the person;

(6) The person is to be transferred from another nursing facility, unless the nursing facility from which or to which the person is to be transferred determines that the person's medical condition has changed substantially since the person's admission to the nursing facility from which the person is to be transferred or a review is required by a third-party payment source;

(7) The person is to be readmitted to a nursing facility following a period of hospitalization, unless the hospital or nursing facility determines that the person's medical condition has changed substantially since the person's admission to the hospital, or a review is required by a third-party payment source;

(8) The department or designated agency fails to complete an assessment within the time required by division (D) or (E) of this section or determines after a partial assessment that the person should be exempt from the assessment.

(D) The department or designated agency shall perform a complete assessment, or, if circumstances provided by rules adopted under division (I) of this section exist, a partial assessment, as follows:

(1) In the case of a hospitalized person applying or intending to apply to a nursing facility, not later than two working days after the person or the person's representative is notified that a bed is available in a nursing facility;

(2) In the case of an emergency as determined in accordance with rules adopted under division (I) of this section, not later than one working day after the person or the person's representative is notified that a bed is

available in a nursing facility;

(3) In all other cases, not later than five calendar days after the person or the person's representative who submits the application is notified that a bed is available in a nursing facility.

(E) If the department or designated agency conducts a partial assessment under division (D) of this section, it shall complete the rest of the assessment not later than one hundred eighty days after the date the person is admitted to the nursing facility unless the assessment entity determines the person should be exempt from the assessment.

(F) A person assessed under this section or the person's representative may file a complaint with the department about the assessment process. The department shall work to resolve the complaint in accordance with rules adopted under division (I) of this section.

(G) A person is not required to seek an alternative source of long-term care and may be admitted to or continue to reside in a nursing facility even though an alternative source of long-term care is available or the person is determined pursuant to an assessment under this section not to need nursing facility services.

(H) No nursing facility ~~with~~ for which an operator has a provider agreement with the department under section 5111.22 of the Revised Code shall admit or retain any person, other than a person exempt from the assessment requirement as provided by division (C) of this section, as a resident unless the nursing facility has received evidence that a complete or partial assessment has been completed.

(I) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section. The rules shall include all of the following:

(1) The information a person being assessed or the person's representative must provide to enable the department or designated agency to do the assessment;

(2) Criteria to be used to determine whether a person is in need of nursing facility services;

(3) Criteria to be used to determine whether an alternative source of long-term care is appropriate for the person being assessed;

(4) Criteria and procedures to be used to determine a person's physical, mental, and psychosocial needs;

(5) Criteria to be used to determine the effectiveness and continued availability of a person's current source of informal support and care;

(6) Circumstances, in addition to those specified in division (C) of this section, under which a person is not required to be assessed;

(7) Circumstances under which the department or designated agency may perform a partial assessment under division (D) of this section;

(8) The method by which a situation will be determined to be an emergency for the purpose of division (D)(2) of this section;

(9) The method by which the department will attempt to resolve complaints filed under division (F) of this section.

(J) The director of job and family services may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code in either of the following circumstances:

(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;

(2) The nursing facility admits, without evidence that a complete or partial assessment has been conducted, a person other than a person exempt from the assessment requirement as provided by division (C) of this section.

The director shall deposit all fines collected under this division into the residents protection fund established by section 5111.62 of the Revised Code.

Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code:

(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(2) "State agency" has the same meaning as in section 9.82 of the Revised Code.

(3) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended:

(a) The Ohio works first program established under Chapter 5107. of the Revised Code;

(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code;

(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant to section 5101.801 of the Revised Code;

(d) A component of a Title IV-A program identified under divisions (A)(3)(a) to (c) of this section that the Title IV-A state plan prepared under division (C)(1) of this section identifies as a component.

(B) The department of job and family services shall act as the single state agency to administer and supervise the administration of Title IV-A

programs. The Title IV-A state plan and amendments to the plan prepared under division (C) of this section are binding on county family services agencies and state agencies that administer a Title IV-A program. No county family services agency or state agency administering a Title IV-A program may establish, by rule or otherwise, a policy governing the Title IV-A program that is inconsistent with a Title IV-A program policy established, in rule or otherwise, by the director of job and family services.

(C) The department of job and family services shall do all of the following:

(1) Prepare and submit to the United States secretary of health and human services a Title IV-A state plan for Title IV-A programs;

(2) Prepare and submit to the United States secretary of health and human services amendments to the Title IV-A state plan that the department determines necessary, including amendments necessary to implement Title IV-A programs identified in division (A)(3)(c) and (d) of this section;

(3) Prescribe forms for applications, certificates, reports, records, and accounts of county family services agencies and state agencies administering a Title IV-A program, and other matters related to Title IV-A programs;

(4) Make such reports, in such form and containing such information as the department may find necessary to assure the correctness and verification of such reports, regarding Title IV-A programs;

(5) Require reports and information from each county family services agency and state agency administering a Title IV-A program as may be necessary or advisable regarding the Title IV-A program;

(6) Afford a fair hearing in accordance with section 5101.35 of the Revised Code to any applicant for, or participant or former participant of, a Title IV-A program aggrieved by a decision regarding the program;

(7) Administer and expend, pursuant to Chapters 5104., 5107., and 5108. of the Revised Code and section 5101.801 of the Revised Code, any sums appropriated by the general assembly for the purpose of those chapters and section and all sums paid to the state by the secretary of the treasury of the United States as authorized by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended;

(8) Conduct investigations and audits as are necessary regarding Title IV-A programs;

(9) Enter into reciprocal agreements with other states relative to the provision of Ohio works first and prevention, retention, and contingency to residents and nonresidents;

(10) Contract with a private entity to conduct an independent on-going

evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered the workforce during the most recent previous quarter for which the information is known and includes information regarding the earnings of those former participants. The report shall include a county-by-county breakdown and shall not contain the names or social security numbers of former participants.

(13) To the extent authorized by section 5101.801 of the Revised Code, enter into interagency agreements with state agencies for the administration of Title IV-A programs identified under division (A)(3)(c) and (d) of this section.

(D) The department shall provide copies of the reports it receives under division (C)(10) of this section and prepares under divisions (C)(11) and (12) of this section to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The department shall provide copies of the reports to any private or government entity on request.

(E) An authorized representative of the department or a county family

services agency or state agency administering a Title IV-A program shall have access to all records and information bearing thereon for the purposes of investigations conducted pursuant to this section.

Part I of this act continues in Part II.

*** * * end of Part I * * ***

Part II
Part II of this act continues Part I.

Sec. 5101.83. (A) As used in this section:

(1) "Assistance group" has the same meaning as in ~~sections~~ section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it also means a group provided benefits and services under the prevention, retention, and contingency program ~~because the members of the group share a common need for benefits and services.~~

(2) "Fraudulent assistance" means assistance and service, including cash assistance, provided under the Ohio works first program established under Chapter 5107., or benefits and services provided under the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code, to or on behalf of an assistance group that is provided as a result of fraud by a member of the assistance group, including an intentional violation of the program's requirements. "Fraudulent assistance" does not include assistance or services to or on behalf of an assistance group that is provided as a result of an error that is the fault of a county department of job and family services or the state department of job and family services.

(B) If a county director of job and family services determines that an assistance group has received fraudulent assistance, the assistance group is ineligible to participate in the Ohio works first program or the prevention, retention, and contingency program until a member of the assistance group repays the cost of the fraudulent assistance. If a member repays the cost of the fraudulent assistance and the assistance group otherwise meets the eligibility requirements for the Ohio works first program or the prevention, retention, and contingency program, the assistance group shall not be denied the opportunity to participate in the program.

This section does not limit the ability of a county department of job and family services to recover erroneous payments under section 5107.76 of the Revised Code.

The state department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of each July and January, the department of job and family services shall complete a report on the characteristics of the individuals who participate in or receive services through the programs operated by the department and the outcomes of the individuals' participation in or receipt of services through the

programs. ~~The report~~ reports shall be for the six-month periods ending on the last days of June and December and shall include information on the following:

(a) Work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code;

(b) Programs of publicly funded child day-care, as defined in section 5104.01 of the Revised Code;

(c) Child support enforcement programs;

(d) Births to recipients of the medical assistance program established under Chapter 5111. of the Revised Code.

(2) ~~Not later than the first day of each July, the department shall complete~~ a progress report on the partnership agreements between the director of job and family services and boards of county commissioners under section 5101.21 of the Revised Code. The report shall include a review of whether the county family services agencies and workforce development agencies satisfied performance standards included in the agreements and whether the department provided assistance, services, and technical support specified in the agreements to aid the agencies in meeting ~~the performance standards.~~

(3) The department shall submit the reports required under ~~divisions~~ division (A)(1) ~~and (2)~~ of this section to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the legislative budget officer, the director of budget and management, and each board of county commissioners. The department shall provide copies of ~~each report~~ the reports to any person or government entity on request.

In designing the format for ~~each report~~ the reports, the department shall consult with individuals, organizations, and government entities interested in the programs operated by the department, so that the reports are designed to enable the general assembly and the public to evaluate the effectiveness of the programs and identify any needs that the programs are not meeting.

(B) Whenever the federal government requires that the department submit a report on a program that is operated by the department or is otherwise under the department's jurisdiction, the department shall prepare and submit the report in accordance with the federal requirements applicable to that report. To the extent possible, the department may coordinate the preparation and submission of a particular report with any other report, plan, or other document required to be submitted to the federal government, as well as with any report required to be submitted to the general assembly. The reports required by the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996 (P.L. 104-193) may be submitted as an annual summary.

Sec. 5103.031. (A) Except as provided in section 5103.033 of the Revised Code, the department of job and family services may not issue a certificate under section 5103.03 of the Revised Code to a foster home unless the foster caregiver successfully completes the following amount of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code:

- (1) If the foster home is a family foster home, at least twelve hours;
- (2) If the foster home is a specialized foster home, at least thirty-six hours.

(B) No child may be placed in a family foster home unless the foster caregiver completes at least twelve additional hours of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code.

Sec. 5103.033. The department of job and family services may issue or renew a certificate under section 5103.03 of the Revised Code to a foster home for the care of a child who is in the custody of a public children services agency or private child placing agency pursuant to an agreement entered into under section 5103.15 of the Revised Code regarding a child who was less than six months of age on the date the agreement was executed if the foster caregiver successfully completes the following amount of training:

(A) For an initial certificate, at least twelve hours of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code;

(B) For renewal of a certificate, at least twelve hours each year of continuing training in accordance with the foster caregiver's needs assessment and continuing training plan developed and implemented under section 5103.035 of the Revised Code.

Sec. 5103.034. ~~(A) A public children services agency,~~ private child placing agency, or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code or the Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code shall make the program available to

foster caregivers. The agency or program shall make the programs available without regard to the type of recommending agency from which a foster caregiver seeks a recommendation ~~and without charge to the foster caregiver.~~

(B) A private child placing agency or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code may condition the enrollment of a foster caregiver in a program on either or both of the following:

(1) Availability of space in the training program;

(2) If applicable, payment of an instruction or registration fee, if any, by the foster caregiver's recommending agency.

(C) The Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code may condition the enrollment in a preplacement training program or continuing training program of a foster caregiver whose recommending agency is a private child placing agency or private noncustodial agency on either or both of the following:

(1) Availability of space in the training program;

(2) Assignment to the program by the foster caregiver's recommending agency of the allowance payable under section 5103.0313 of the Revised Code.

(D) A private child placing agency or private noncustodial agency may contract with an individual or a public or private entity to administer a preplacement training program or continuing training program operated by the agency and approved by the department of job and family services under section 5103.038 of the Revised Code.

Sec. 5103.036. For the purpose of determining whether a foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from ~~the Ohio child welfare training program or pursuant to a preplacement training program or continuing training program operated under section 5103.034 or 5153.60 of the Revised Code regardless of whether the program is operated by the recommending agency operated the preplacement training program or continuing training program.~~ The agency may require that the foster caregiver successfully complete additional training as a condition of the agency recommending that the department of job and family services certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code.

Sec. 5103.037. The department of job and family services, in

consultation with the departments of youth services, mental health, education, mental retardation and developmental disabilities, and alcohol and drug addiction services, shall develop a model design of a preplacement training program for foster caregivers seeking an initial certificate under section 5103.03 of the Revised Code and a model design of a continuing training program for foster caregivers seeking renewal of a certificate under that section. The model design of a preplacement training program shall comply with section 5103.039 of the Revised Code. The model design of a continuing training program shall comply with section 5103.0310 of the Revised Code. The department of job and family services shall make the model designs available to ~~public children services agencies~~ the Ohio child welfare training program, private child placing agencies, and private noncustodial agencies.

Sec. 5103.038. (A) Every other year by a date specified in rules adopted under section 5103.0316 of the Revised Code, each ~~public children services agency~~, private child placing agency, and private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code shall submit to the department of job and family services a proposal outlining the program. The proposal may be the same as, a modification of, or different from, a model design developed under section 5103.037 of the Revised Code. ~~The proposal shall include a budget for the program regarding the cost associated with trainers, obtaining sites at which the training is provided, and the administration of the training. The budget shall be consistent with rules adopted under section 5103.0316 of the Revised Code governing the department of job and family services' reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code.~~

(B) Not later than thirty days after receiving a proposal under division (A) of this section, the department shall either approve or disapprove the proposed program. The department shall approve a proposed preplacement training program if it complies with section 5103.039 or 5103.0310 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a preplacement training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the program. The department shall approve a proposed continuing training program if it complies with section 5103.0310 or 5103.0311 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a continuing training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the

program. ~~The department shall disapprove a proposed program if the~~ program's budget is not consistent with rules adopted under section 5103.0316 of the Revised Code governing the department's reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code. If the department disapproves a proposal, it shall provide the reason for disapproval to the agency that submitted the proposal and advise the agency of how to revise the proposal so that the department can approve it.

(C) The department's approval under division (B) of this section of a proposed preplacement training program or continuing training program is valid only for two years following the year the proposal for the program is submitted to the department under division (A) of this section.

Sec. 5103.0312. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for foster caregivers who hold certificates issued under section 5103.03 of the Revised Code shall pay those foster caregivers ~~who have had at least one foster child placed in their home~~ a stipend to reimburse them for attending training courses provided by the Ohio child welfare training program or ~~pursuant to~~ a preplacement training program or continuing training program operated under section 5103.034 or 5153.60 of the Revised Code. The payment shall be based on a stipend rate established by the department of job and family services. The stipend rate shall be the same regardless of the type of recommending agency from which a foster caregiver seeks a recommendation. The department shall, pursuant to rules adopted under section 5103.0316 of the Revised Code, reimburse the recommending agency for stipend payments it makes in accordance with this section.

Sec. 5103.0313. The department of job and family services shall ~~reimburse the following~~ compensate a private child placing agency or private noncustodial agency for the cost of providing procuring or operating preplacement and continuing training to foster caregivers:

~~(A) The Ohio child welfare training program;~~

~~(B) A public children services agency, private child placing agency, or private noncustodial agency through a preplacement training program or continuing training program operated programs~~ under section 5103.034 of the Revised Code for foster caregivers who are recommended for initial certification or recertification by the agency.

~~The reimbursement compensation shall be on a per diem basis and limited to the cost associated with the trainer, obtaining a site at which the training is provided, and the administration of the training paid to the agency in the form of an allowance for each hour of preplacement and continuing~~

~~training provided or received. A reimbursement rate shall be the same regardless of whether the training program is operated by the Ohio child welfare training program or a public children services agency, private child placing agency, or private noncustodial agency.~~

Sec. 5103.0314. The department of job and family services shall not ~~reimburse~~ compensate a recommending agency for ~~the cost of~~ any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in addition to the minimum training required by section 5103.031 or 5103.032 of the Revised Code.

Sec. 5103.0315. The department of job and family services shall seek federal financial participation for the cost of making payments under section 5103.0312 of the Revised Code and ~~reimbursements~~ allowances under section 5103.0313 of the Revised Code. The department shall notify the governor, president of the senate, minority leader of the senate, speaker of the house of representatives, and minority leader of the house of representatives of any proposed federal legislation that endangers the federal financial participation.

Sec. 5103.0316. ~~Not later than ninety days after January 1, 2001, the~~ The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of sections 5103.031 to 5103.0316 of the Revised Code. The rules shall provide for all of the following:

(A) For the purpose of section 5103.038 of the Revised Code, the date by which a ~~public children services agency, private child placing agency, or private noncustodial agency~~ that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code must submit to the department a proposal outlining the program;

(B) Requirements governing the department's ~~reimbursement compensation of the Ohio child welfare training program and public children services agencies,~~ private child placing agencies, and private noncustodial agencies under sections 5103.0312 and 5103.0313 of the Revised Code;

(C) Any other matter the department considers appropriate.

Sec. 5103.154. (A) Information concerning all children who are, pursuant to section 2151.353 or 5103.15 of the Revised Code, in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised

Code shall be listed with the department within ninety days after permanent custody is effective, unless the child has been placed for adoption or unless an application for placement was initiated under section 5103.16 of the Revised Code.

(B) All persons who wish to adopt children, and are approved by an agency so empowered under this chapter, shall be listed with the department within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(C) All persons who wish to adopt a child with special needs as defined in rules adopted under section 5153.163 of the Revised Code, and who are approved by an agency so empowered under this chapter, shall be listed separately by the department within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child with special needs placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(D) The department shall forward information on such children and listed persons at least quarterly, to all public children services agencies and all certified agencies.

(E) The appropriate listed names shall be removed when a child is placed in an adoptive home or when a person withdraws an application for adoption.

(F) No later than six months after the end of each fiscal year, the department shall compile a report of its conclusions regarding the effectiveness of its actions pursuant to this section and of the restrictions on placement under division ~~(E)~~(G) of section 5153.163 of the Revised Code in increasing adoptive placements of children with special needs, together with its recommendations, and shall submit a copy of the report to the chairpersons of the principal committees of the senate and the house of representatives who consider welfare legislation.

Sec. 5103.155. As used in this section, "children with special needs" has the same meaning as in rules adopted under section 5153.163 of the Revised Code.

If the department of job and family services determines that money in the putative father registry fund created under section 2101.16 of the Revised Code is more than is needed to perform its duties related to the putative father registry, the department may use surplus moneys in the fund to promote adoption of children with special needs.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily

operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation

time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child day-care or publicly funded child day-care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:

(a) An organized religious body provides the child day-care;

(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;

(c) The child day-care is not provided for more than thirty days a year;

(d) The child day-care is provided only for preschool and school children.

(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.

(N) "Child day-care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child day-care providers

in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child day-care;

(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;

(4) Recruitment of child day-care providers;

(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child day-care in the community;

(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;

(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;

(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.

(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.

(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under ~~section~~ sections 3301.31 to 3301.37 of the Revised Code.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section

3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective day-care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are

otherwise ineligible for publicly funded child day-care.

(JJ) "Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act funds Title IV-A, and Title XX, distributed by the department of job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(NN) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

(OO) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(PP) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

(QQ) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is provided for four to twelve children at one time if four or more children at

one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(QQ)~~(SS) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child day-care and the needs of children receiving child day-care or publicly funded child day-care and, ~~no later than January 1, 1992,~~ shall include specific rules for school child day-care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The rules shall include the following:

- (1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;
- (2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;
- (3) Standards for the supervision, care, and discipline of children

receiving child day-care or publicly funded child day-care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention.

Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the center;

(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child day-care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		
(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		

(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, or at least two years of experience in supervising and giving daily care to children attending an organized group program.

(b) In addition to the requirements of division (B)(4)(a) of this section,

any administrator employed or designated on or after September 1, 1986, shall show evidence of, and any administrator employed or designated prior to September 1, 1986, shall show evidence within six years after such date of, at least one of the following:

- (i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

- (ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

- (iii) A child development associate credential issued by the national child development associate credentialing commission;

- (iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

- (a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

- (i) A graduate of a two-year vocational child-care training program approved by the state board of education;

- (ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

- (b) A child-care staff member shall be exempt from the educational

requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(6) Every child day-care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori international. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

(7) The administrator of each child day-care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to

any person other than a parent, custodian, or guardian of a child who attends the center.

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid and in prevention, recognition, and management of communicable diseases which is approved by the state department of health and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except as otherwise provided in division (B)(7) of this section and except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number of inservice training hours required under division (B)(6) of this section; or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section; however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the

older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child day-care and the needs of children receiving child day-care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the

provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type A home;

(18) Standards for the maximum number of children per child-care staff member;

(19) Requirements for the amount of usable indoor floor space for each child;

(20) Requirements for safe outdoor play space;

(21) Qualifications and training requirements for administrators and for

child-care staff members;

(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(23) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

(24) Any other procedures and standards necessary to carry out this chapter.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(a) Persons who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(b) Persons who provide child day-care for eligible children all of whom are the children of the same caretaker parent.

The rules shall require, and shall include procedures for the director to ensure, that type B family day-care homes that receive a limited certification provide child day-care to children in a safe and sanitary manner. With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child day-care during the provisional period. Except as otherwise provided in division (G)(1) of this section, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a) of this section or a person described in division (G)(1)(b) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health

and safety requirements are being met in the home. If such verification is provided, the county shall waive any inspection and any criminal records check required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child day-care or publicly funded child day-care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

- (n) Qualification and training requirements for authorized providers;
- (o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

- (p) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:

- (1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

- (2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;

- (3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

- (4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

- (5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

- (6) Standards for the safe transport of children when under the care of in-home aides;

- (7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

- (8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;
- (9) Procedures for record keeping and evaluation;
- (10) Procedures for receiving, recording, and responding to complaints;
- (11) Qualifications and training requirements for in-home aides;
- (12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;
- (13) Any other procedures and standards necessary to carry out this chapter.

(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

(J)(1) The director of job and family services shall ~~send copies~~ do all of the following:

(a) Send to each licensee notice of proposed rules to each licensee and each county director of job and family services and shall give governing the licensure of child day-care centers and type A homes;

(b) Give public notice of hearings regarding the rules to each licensee and each county director of job and family services at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code.;

(c) Prior to the effective date of a rule, the director of job and family services shall provide copies, in either paper or electronic form, a copy of the adopted rule to each licensee and each county director of job and family services.

(2) The director shall do all of the following:

(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;

(c) Provide to each county director of job and family services an electronic copy of each adopted rule prior to the rule's effective date.

(3) The county director of job and family services shall send copies of proposed rules to each authorized provider and in-home aide and shall give public notice of hearings regarding the rules to each authorized provider and

in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. Prior to the effective date of a rule, the county director of job and family services shall provide copies of the adopted rule to each authorized provider and in-home aide.

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.02. (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child day-care that operates for two or less consecutive weeks;

(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or

guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

- (i) The site location of the program;
- (ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;
- (iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;
- (iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

- (a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;
- (b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1) The department shall, at least twice during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

At least one inspection shall be unannounced and all inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall investigate and may inspect a center or type A home.

(2) If the department implements an instrument-based program

monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall, at least once during every twelve-month period of operation of a center or type A home, collect information concerning the amounts charged by the center or home for providing child day-care services for use in establishing rates of reimbursement and payment pursuant to section 5104.30 of the Revised Code.

(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license.

(D) The department may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant knowingly makes a false statement on the application, does not comply with the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code, or has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

(E) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any person, firm, organization, institution, or agency licensed under section 5104.03 of the Revised Code is in violation of any provision of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department may issue an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any order of revocation, the person whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child day-care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or

type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:

(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child day-care on October 1,

1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child day-care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child day-care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child day-care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child day-care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child day-care, including appropriations of state funds for publicly funded child day-care and appropriations of federal funds ~~for publicly funded child day-care available under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, and the child care block grant act, Title IV-A, and Title XX.~~ The department may use any state funds appropriated for publicly funded child day-care as the state share required to match any federal funds appropriated for publicly funded child day-care.

(C) ~~The department may~~ In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child day-care.

(2) Not more than five per cent of the aggregate amount of ~~those~~ the federal funds received for a fiscal year may be expended for administrative costs. ~~The~~

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(1)(a) Activities designed to provide comprehensive consumer education to parents and the public;

(2)(b) Activities that increase parental choice;

(3)(c) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care.

(D)(4) The department shall ensure that ~~any~~ the federal funds ~~received by the state under the child care block grant act~~ will be used only to

supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of ~~that~~ the child care block grant act for publicly funded child day-care and related programs. A county department of job and family services may purchase child day-care from funds obtained through any other means.

~~(F)~~(D) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department may develop and maintain a registry of persons providing child day-care. The director may adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

~~(F)~~(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child day-care;

(b) A procedure for reimbursing and paying providers of publicly funded child day-care.

(2) In establishing reimbursement ceilings under division ~~(F)~~(E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child day-care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a) of section

5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(3) In establishing reimbursement ceilings under division ~~(F)~~(E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

- (a) Geographic location of the provider;
- (b) Type of care provided;
- (c) Age of the child served;
- (d) Special needs of the child served;
- (e) Whether the expanded hours of service are provided;
- (f) Whether weekend service is provided;
- (g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child day-care;
- (h) Any other factors the director considers appropriate.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child day-care, regardless of the source of public funds used to purchase the child day-care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child day-care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts

or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child day-care shall specify at least the following:

(1) That the provider of publicly funded child day-care agrees to be paid for rendering services at the lowest of the rate customarily charged by the provider for children enrolled for child day-care, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider;

(2) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child day-care provider or except as provided in division (B) of section 3301.37 of the Revised Code, shall continue to be licensed, approved, or certified pursuant to this chapter ~~or sections 3301.52 to 3301.59 of the Revised Code~~ and shall comply with all standards and other requirements in this chapter ~~and those sections~~ and in rules adopted pursuant to this chapter ~~or those sections~~ for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the county department of job and family services or the state department of job and family services;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lowest of the rate customarily charged by the provider, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider. The county department may provide the certificates for payment to the individuals or may contract with child day-care providers or child day-care resource and referral service organizations that make determinations of eligibility for publicly funded child day-care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child day-care.

For each six-month period a provider of publicly funded child day-care provides publicly funded child day-care to the child of an individual given certificates ~~of~~ for payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child day-care to the child had the child been present. County departments shall specify the maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child day-care had the child been present. The maximum number of days shall not exceed ten days in a six-month period during which publicly funded child day-care is provided to the child regardless of the number of providers that provide publicly funded child day-care to the child during that period.

Sec. 5107.02. As used in this chapter:

(A) "Adult" means an individual who is not a minor child.

(B) "Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for and the amount of assistance provided under Ohio works first.

(C) "Custodian" means an individual who has legal custody, as defined in section 2151.011 of the Revised Code, of a minor child or comparable status over a minor child created by a court of competent jurisdiction in another state.

(D) "Guardian" means an individual that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code, or a court of competent jurisdiction in another state, to exercise parental rights over a minor child to the extent provided in the court's order and subject to residual parental rights of the minor child's parents.

(E) "Minor child" means either of the following:

(1) An individual who has not attained age eighteen;

(2) An individual who has not attained age nineteen and is a full-time student in a secondary school or in the equivalent level of vocational or technical training.

(F) "Minor head of household" means a minor child who is either of the following:

(1) ~~At~~ Is married, at least six months pregnant, and a member of an assistance group that does not include an adult;

(2) ~~A~~ Is married and is a parent of a child included in the same assistance group that does not include an adult.

(G) "Ohio works first" means the program established by this chapter known as temporary assistance for needy families in Title IV-A.

(H) "Payment standard" means the amount specified in rules adopted under section 5107.05 of the Revised Code that is the maximum amount of cash assistance an assistance group may receive under Ohio works first from state and federal funds.

(I) "Specified relative" means the following individuals who are age eighteen or older:

(1) The following individuals related by blood or adoption:

(a) Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";

(b) Siblings;

(c) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";

(d) First cousins and first cousins once removed.

(2) Stepparents and stepsiblings;

(3) Spouses and former spouses of individuals named in division (I)(1) or (2) of this section.

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5107.30. (A) As used in this section:

(1) "LEAP program" means the learning, earning, and parenting program.

(2) "Teen" means a participant of Ohio works first who is under age

~~twenty~~ eighteen or is age eighteen and in school and is a natural or adoptive parent or is pregnant.

(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.

(B) The director of job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:

(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;

(2) Conduct ~~one or more special demonstration programs~~ a program titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.

(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements governing the program unless the teen shows good cause for not attending school. The department shall provide, in addition to the cash assistance payment provided under Ohio works first, an incentive payment, in an amount determined by the department, to every teen who is participating in the LEAP program and attends school in accordance with the requirements governing the program. The department shall reduce the cash assistance payment, in an amount determined by the department, under Ohio works first to every teen participating in the LEAP program who fails or refuses, without good cause, to ~~attend school in accordance with~~ meet the requirements governing the program.

(4) Require every teen who is subject to LEAP program requirements to enter into a written agreement with the county department of job and family services that provides all of the following:

(a) The teen, to be eligible to receive the incentive payment under division (B)(3) of this section, must ~~attend school in accordance with~~ meet the requirements of the LEAP program;.

(b) The county department will provide the incentive payment to the teen if the teen ~~attends school;~~ meets the requirements of the LEAP program.

(c) The county department will reduce the cash assistance payment under Ohio works first if the teen fails or refuses without good cause to attend school in accordance with the requirements governing the LEAP program.

(5) ~~Evaluate the demonstration programs established under this section.~~

~~In conducting the evaluations, the department of job and family services shall select control groups of teens who are otherwise subject to the LEAP program requirements.~~

(C) A ~~teen~~ minor head of household who is participating in the LEAP program shall be considered to be participating in a work activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the ~~teen~~ minor head of household is not subject to the requirements or sanctions of those sections, ~~unless the teen is over age eighteen and meets the LEAP program requirements by participating regularly in work activities, developmental activities, or alternative work activities under those sections.~~

(D) Subject to the availability of funds, county departments of job and family services shall provide for LEAP participants to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child day-care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.37. ~~An~~ (A) Except as provided in division (B) of this section, an individual who resides in a county home, city infirmary, jail, or other public institution is not eligible to participate in Ohio works first.

(B) Division (A) of this section does not apply to a minor child residing with the minor child's mother who participates in a prison nursery program established under section 5120.65 of the Revised Code.

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code:

(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.64 of the Revised Code.

(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.62 of the Revised Code.

(C) "High school equivalence diploma" means a diploma attesting to achievement of the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education. "High school equivalence diploma" includes a certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development.

(D) "Work activity" means the following:

(1) Unsubsidized employment activities established under section 5107.60 of the Revised Code;

(2) The subsidized employment program established under section 5107.52 of the Revised Code;

(3) The work experience program established under section 5107.54 of the Revised Code;

(4) On-the-job training activities established under section 5107.60 of the Revised Code;

(5) The job search and readiness program established under section 5107.50 of the Revised Code;

(6) Community service activities established under section 5107.60 of the Revised Code;

(7) Vocational educational training activities established under section 5107.60 of the Revised Code;

(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;

(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;

(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma;

(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity;

(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code;

(13) ~~Except as limited~~ To the extent provided by division (C) of section 5107.30 of the Revised Code, the LEAP program established under that section.

Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52,

5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first:

(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial activities;

(B) On-the-job training activities, including training to become an employee of a child day-care center or type A family day-care home, authorized provider of a certified type B family day-care home, or in-home aide;

(C) Community service activities including a program under which a participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;

(D) Vocational educational training activities;

(E) Jobs skills training activities that are directly related to employment;

(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or high school equivalence diploma;

(G) Education activities for participants who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma, including LEAP participation by a minor head of household;

(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.

Sec. 5108.01. As used in this chapter:

(A) ~~"Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for the prevention, retention, and contingency program~~ "County family services planning committee" means the county family services planning committee established under section 329.06 of the Revised Code or the board created by consolidation under division (C) of section 6301.06 of the Revised Code.

(B) "Prevention, retention, and contingency program" means the program established by this chapter and funded in part with federal funds provided under Title IV-A.

(C) "Title IV-A" means Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5108.03. Under the prevention, retention, and contingency program, ~~a~~ each county department of job and family services shall ~~provide~~

do both of the following in accordance with the statement of policies the county department develops under section 5108.04 of the Revised Code:

(A) Provide benefits and services that individuals need to overcome immediate barriers to achieving or maintaining self sufficiency and personal responsibility;

(B) Perform related administrative duties. ~~A county department shall~~ provide the benefits and services in accordance with either the model design for the program that the department of job and family services develops under section 5108.05 of the Revised Code or the county department's own policies for the program developed under section 5108.06 of the Revised Code.

~~Sec. 5108.06~~ 5108.04. Each county department of job and family services shall ~~either adopt the model design for a written statement of policies governing the prevention, retention, and contingency program the department of job and family services develops under section 5108.05 of the Revised Code or develop its own policies for the program county. To develop its own policies, a county department shall adopt a written statement of the policies governing the program. The policies may be a modification of the model design, different from the model design, or a combination. The statement of policies shall be adopted not later than October 1, 2003, and shall be updated at least every two years thereafter.~~ A county department may amend its statement of policies to modify, terminate, and establish new policies. The county director of job and family services shall sign and date the statement of policies and any amendment to it. Neither the statement of policies nor any amendment to it may have an effective date that is earlier than the date of the county director's signature.

~~A~~ Each county department of job and family services shall ~~inform~~ provide the department of job and family services ~~of whether it has adopted~~ the model design or developed its own policies for the prevention, retention, and contingency program. If a county department develops its own policies, ~~it shall provide the department~~ a written copy of the statement of policies and any amendments it adopts to the statement not later than ten calendar days after the statement or amendment's effective date.

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention, retention, and contingency program that the department of job and family services develops under section 5108.05 of the Revised Code and policies for the program that a county department of job and family services may develop under section 5108.06 of the Revised Code shall establish~~ In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, each county

department of job and family services shall do all of the following:

(A) Establish or specify eligibility requirements for assistance groups that apply for the program under section 5108.10 of the Revised Code, benefits all of the following:

(1) Benefits and services to be provided under the program to assistance groups, administrative that are allowable uses of federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a) but rather benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance;

(2) Restrictions on the amount, duration, and frequency of the benefits and services;

(3) Eligibility requirements for the benefits and services;

(4) Fair and equitable procedures for both of the following:

(a) The certification of eligibility for the benefits and services that do not have a financial need eligibility requirement;

(b) The determination and verification of eligibility for the benefits and services that have a financial need eligibility requirement.

(5) Objective criteria for the delivery of the benefits and services;

(6) Administrative requirements, and other;

(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine determines are necessary.

~~The model design and a county department's policies may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services. If the model design or a county department's policies include such a provision, the model design or county department's policies shall require that each individual who is to receive the benefits and services meet the eligibility requirements established for the type of group of which the individual is a member. The model design or county department's policies also shall require that the county department providing the benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.~~

~~The model design and a county department's policies may specify benefits and services that a county department may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families.~~

~~The model design and a county department's policies must be consistent with~~ (B) Provide for the statement of policies to be consistent with all of the following:

(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;

(2) The review and analysis of the county family services committee conducted in accordance with division (B)(2) of section 329.06 of the Revised Code;

(3) Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. All benefits and services to be provided under the model design or a county department's policies must be allowable uses of federal Title IV-A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(C) Either provide the public and local government entities at least thirty days to submit comments on, or have the county family services planning committee review, the statement of policies, including the design of the county's prevention, retention, and contingency program, before the county director signs and dates the statement of policies.

Sec. 5108.051. A county department of job and family services is not required to follow division (C) of section 5108.05 of the Revised Code when amending its statement of policies under section 5108.04 of the Revised Code. Division (C) of section 5108.05 of the Revised Code applies only when a county department adopts its initial and updated statement of policies under section 5108.04 of the Revised Code.

Sec. 5108.06. In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, a county department of job and family services may specify both of the following:

(A) Benefits and services to be provided under the program that prevent and reduce the incidence of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families as permitted by 45 C.F.R. 260.20(c) and (d);

(B) How the county department will certify individuals' eligibility for such benefits and services.

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county

commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies.

(B) The board of county commissioners shall revise its certification under division (A) of this section if an amendment to the statement of policies that the board considers to be significant is adopted under section 5108.04 of the Revised Code.

Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing officer, director of job and family services, or director's designee shall base the decision in the hearing or appeal on the following:

~~(A) If the county department of job and family services involved in the hearing or appeal adopted the department of job and family services' model design for the program developed under section 5108.05 of the Revised Code, the model design;~~

~~(B) If the county department developed its own policies for the program,~~ the county department's department of job and family services' written statement of policies adopted under section ~~5108.06~~ 5108.04 of the Revised Code and any amendments the county department adopted to the statement if the county department provides a copy of the statement of policies and all amendments to the hearing officer, director, or director's designee at the hearing or appeal.

Sec. 5108.10. ~~An assistance group seeking to participate in the prevention, retention, and contingency program shall apply to a county department of job and family services using~~ Eligibility for a benefit or service under a county's prevention, retention, and contingency program shall be certified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code if the benefit or service does not have a financial need eligibility requirement.

Eligibility for a benefit or service shall be determined in accordance with the statement of policies and based on an application containing information the county department of job and family services requires.

~~When if the benefit or service has a financial need eligibility requirement.~~ When a county department receives an application for ~~participation in the prevention, retention, and contingency program such~~ benefits and services, it shall ~~promptly make an investigation and record of the circumstances of the applicant in order to ascertain~~ follow verification procedures established by the statement of policies to verify the facts surrounding the application and to obtain such other information as may be

required. On completion of the ~~investigation~~ verification procedure, the county department shall determine whether the applicant is eligible ~~to participate, for the benefits or services the applicant should receive,~~ and the approximate date when ~~participation is~~ the benefits or services are to begin.

Sec. 5108.11. (A) To the extent permitted by section 307.982 of the Revised Code, a board of county commissioners may enter into a written contract with a private or government entity for the entity to do either or both of the following for the county's prevention, retention, and contingency program:

(1) Certify eligibility for benefits and services that do not have a financial need eligibility requirement;

(2) Accept applications and determine and verify eligibility for benefits and services that have a financial need eligibility requirement.

(B) If a board of county commissioners enters into a contract under division (A) of this section with a private or government entity, the county department of job and family services shall do all of the following:

(1) Ensure that eligibility for benefits and services is certified or determined and verified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code;

(2) Ensure that the private or government entity maintains all records that are necessary for audits;

(3) Monitor the private or government entity for compliance with Title IV-A, this chapter of the Revised Code, and the statement of policies;

(4) Take actions that are necessary to recover any funds that are not spent in accordance with Title IV-A or this chapter of the Revised Code.

Sec. 5108.12. Each county department of job and family services is responsible for funds expended or claimed under the county's prevention, retention, and contingency program that the department of job and family services, auditor of state, United States department of health and human services, or other government entity determines is expended or claimed in a manner that federal or state law or policy does not permit.

Sec. 5111.016. (A) As used in this section, "healthcheck" has the same meaning as in section 3313.714 of the Revised Code.

(B) In accordance with federal law and regulations, the department of job and family services shall establish a combination of written and oral methods designed to provide information about healthcheck to all persons eligible for the program or their parents or guardians. The department shall ensure that its methods of providing information are effective.

Each county department of job and family services or other entity that distributes or accepts applications for medical assistance shall prominently

display in a conspicuous place the following notice:

"Under state and federal law, if you are a Medicaid recipient, your child is entitled to a thorough medical examination provided through Healthcheck. Once this examination is completed, your child is entitled to receive, at no cost to you, any service determined to be medically necessary."

(C) Before a healthcheck medical examination may be performed on a child, the department of job and family services shall do both of the following:

(1) Inform the child's parent, through both oral and written communication, that the examination may include the following components:

(a) A mental evaluation;

(b) A physical assessment;

(c) An unclothed physical examination of the child's reproductive system, including a genital examination.

(2) Obtain the parent's consent to perform the examination.

The department shall not require a parent to consent to a healthcheck medical examination for the parent's child as a condition of receipt of other medicaid services.

Sec. 5111.0112. The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations ~~and which of those groups are appropriate for a copayment program designed to reduce inappropriate and excessive use of medical goods and services.~~ If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the copayment program.

Sec. 5111.0113. Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution or in adoptions subsidized under division (B) of section 5153.163 of the Revised Code are eligible for medical assistance through the medicaid program established under section 5111.01 of the Revised Code.

Sec. 5111.02. (A) Under the medical assistance program:

(1) Except as otherwise permitted by federal statute or regulation and at the department's discretion, reimbursement by the department of job and family services to a medical provider for any medical service rendered under the program shall not exceed the authorized reimbursement level for the same service under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(2) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(3) The department may deduct from payments for services rendered by a medicaid provider under the medical assistance program any amounts the provider owes the state as the result of incorrect medical assistance payments the department has made to the provider.

(4) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(5) The number of days of inpatient hospital care for which reimbursement is made on behalf of a recipient of medical assistance to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(B) The director of job and family services may adopt, amend, or rescind rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medical services to be included in the medical assistance program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.

~~(C) No health insuring corporation that has a contract to provide health care services to recipients of medical assistance shall restrict the availability to its enrollees of any prescription drugs included in the Ohio medicaid drug~~

~~formulary as established under rules adopted by the director.~~

(D) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.021. Under the medical assistance program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to division (A)(4) of section 5111.02 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that the provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the director of job and family services shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The director shall notify the provider by mail of the lien, but absence of proof that the notice was sent does not affect the validity of the lien. The lien is not valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time the notice is filed.

If the provider acquires real or personal property after notice of the lien is filed, the lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property unless the notice of lien is refiled after the property is acquired by the provider and before the competing lien attaches to the after-acquired property or before the conveyance to the subsequent bona fide purchaser for value.

When the amount has been paid, the provider may record with the recorder notice of the payment. For recording such notice of payment, the recorder shall charge and receive from the provider a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code.

In the event of a distribution of a provider's assets pursuant to an order of any court under the law of this state including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, amounts then or thereafter due the state under this chapter have

the same priority as provided by law for the payment of taxes due the state and shall be paid out of the receivership trust fund or other such trust fund in the same manner as provided for claims for unpaid taxes due the state.

If the attorney general finds after investigation that any amount due the state under this chapter is uncollectable, in whole or in part, the attorney general shall recommend to the director the cancellation of all or part of the claim. The director may thereupon effect the cancellation.

Sec. 5111.022. (A) As used in this section:

(1) "Community mental health facility" means a community mental health facility that has a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is certified by the department of mental health or department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

~~(B) The state medicaid plan for providing medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as amended, shall include provision of the following mental health services when provided by community mental health facilities described in division (B) of this section:~~

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

~~(B) Services shall be included in the state plan only when provided by community mental health facilities that have quality assurance programs accredited by the joint commission on accreditation of healthcare organizations or certified by the department of mental health or department of job and family services.~~

~~(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local~~

funds to match ~~Title XIX federal medicaid~~ reimbursement funds earned by the community mental health facilities. ~~Reimbursement for eligible services shall be based on the prospective cost of providing the services as developed in standards adopted as part of the comprehensive annual plan.~~

~~(D) As used in this section, "mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.~~

~~(E) With respect to services established by division (A) of this section, the The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section. The terms of the contract between the department of job and family services and the department of mental health shall specify both of the following:~~

~~(1) That the department of mental health and boards of alcohol, drug addiction, and mental health services shall provide state and local matching funds for Title XIX of the "Social Security Act," for reimbursement of services established by division (A) of this section;~~

~~(2) How the community mental health facilities described in division (B) of this section will be paid for providing the services established by division (A) of this section.~~

~~(E) Not later than May 1, 2004, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~

~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide access and acuity standards for partial hospitalization mental health services and assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~

~~Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:~~

~~(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section 5111.022 of the Revised Code;~~

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) In modifying the manner, or establishing a new manner, for medicaid to pay for the services specified in division (A) of this section, the director shall include a provision for obtaining federal financial participation for the costs that each board of alcohol, drug addiction, and mental health services incurs in its administration of those services. Except as provided in section 5111.92 of the Revised Code, the department of job and family services shall pay the federal financial participation obtained for such administrative costs to the board that incurs the administrative costs.

(C) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.03. (A) No provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the department of job and family services relating to the program. No provider shall willfully receive payments to which the provider is not entitled, or willfully receive payments in a greater amount than that to which the provider is entitled; nor shall any provider falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. As used in this section, a provider engages in "deception" when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a provider has engaged in deception.

(B) Any provider who violates division (A) of this section shall be

liable, in addition to any other penalties provided by law, for all of the following civil penalties:

(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;

(2) Payment of an amount equal to three times the amount of any excess payments;

(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;

(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(C) ~~In~~ As used in this division, "intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings given in section 5111.20 of the Revised Code.

In addition to the civil penalties provided in division (B) of this section, the director of job and family services, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider agreement between the department and the provider and stop reimbursement to the provider for services rendered for a period of up to five years from the date of conviction or entry of judgment. As used in this chapter, "owner" means any person having at least five per cent ownership in the medicaid provider. No such provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of termination as provided in division (C) of this section, nor, during the period of termination as provided in division (C) of this section, shall such provider, owner, officer, authorized agent, associate, manager, or employee receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. The provider agreement shall not be terminated or reimbursement terminated if the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought

pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a medicaid provider agreement if the person can demonstrate that the person had no knowledge of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

~~Providers subject to sections 5111.20 to 5111.32 of the Revised Code~~
Nursing facility or intermediate care facility for the mentally retarded providers whose agreements are terminated pursuant to this section may continue to receive reimbursement for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer recipients to another facility or to alternate care and if federal funds are provided for such reimbursement.

(D) Any provider of services or goods contracting with the department of job and family services pursuant to Title XIX of the "Social Security Act," who, without intent, obtains payments under this chapter in excess of the amount to which the provider is entitled, thereby becomes liable for payment of interest on the amount of the excess payments at the maximum real estate mortgage rate on the date the payment was made to the provider for the period from the date upon which payment was made to the date upon which repayment is made to the state.

(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of job and family services. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.

(F) The authority, under state and federal law, of the department of job and family services or a county department of job and family services to recover excess payments made to a provider is not limited by the availability of remedies under sections 5111.11 and 5111.12 of the Revised Code for recovering benefits paid on behalf of recipients of medical assistance.

The penalties under this chapter apply to any overpayment, billing, or falsification occurring on and after April 24, 1978. All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 5111.06. (A)(1) As used in this section:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded ~~subject to sections as defined in section 5111.20 to 5111.32~~ of the Revised Code.

Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and every second December thereafter, the director of job and family services shall establish a dispensing fee, effective the following January, for licensed pharmacists who are providers under this chapter. The dispensing fee shall take into consideration the results of the survey conducted under section 5111.07 of the Revised Code.

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 U.S.C.A. 1396r-8(g), as amended, the department of job and family services shall establish an outpatient drug use review program to assure that prescriptions obtained by recipients of medical assistance under this chapter are appropriate, medically necessary, and unlikely to cause adverse medical results.

Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to establish the supplemental drug rebate program.

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment

and implementation of the program.

If the director establishes a supplemental drug rebate program, the director shall exempt from the program and from prior authorization or any other restriction all of a drug manufacturer's drug products that have been approved by the United States food and drug administration and for which there is no generic equivalent for the treatment of either of the following:

(A) Mental illness, as defined in section 5122.01 of the Revised Code, including schizophrenia, major depressive disorder, and bipolar disorder;

(B) HIV or AIDS, both as defined in section 3701.24 of the Revised Code.

Sec. 5111.083. (A) Each time before the director of job and family services contracts with a person to administer the medicaid program's preferred drug list established under rules adopted under section 5111.02 of the Revised Code or supplemental drug rebate program established under section 5111.082 of the Revised Code, an advisory council consisting of the following members shall be appointed to review the proposals submitted by persons seeking the contract and to select the person who is to be awarded the contract:

(1) The director of job and family services;

(2) One member of the house of representatives who is a member of the majority party and one member of the house of representatives who is a member of the minority party, appointed by the speaker of the house of representatives;

(3) One member of the senate who is a member of the majority party and one member of the senate who is a member of the minority party, appointed by the president of the senate;

(4) One representative of patient advocates, appointed by the speaker of the house of representatives;

(5) One representative of patient advocates, appointed by the president of the senate;

(6) One representative of the Ohio state medical association, appointed by that association's executive director;

(7) One representative of large businesses, appointed by the president of the Ohio chamber of commerce;

(8) One representative of small businesses, appointed by the state director of the Ohio chapter of the national federation of independent businesses;

(9) One representative of local government, appointed by the executive director of the county commissioners' association of Ohio.

The advisory council shall elect a chairperson from among its members.

(B) All of the following apply to an advisory council appointed under this section:

(1) It is subject to the open meetings law under section 121.22 of the Revised Code.

(2) Its members may vote to select the person to be awarded the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program only if a quorum of the members is present at the meeting at which the vote is taken.

(3) Its members shall not be reimbursed for their expenses incurred in their work on the advisory council.

(4) It may seek grants, donations, or other funds to pay for its activities.

(5) It shall cease to exist when it selects the person to be awarded the contract that the advisory council was appointed to select.

(C) The department of job and family services shall provide to an advisory council appointed under this section copies of proposals submitted by each person seeking the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program for which the advisory council was appointed. The department shall redact from each copy of each proposal it provides to an advisory council under this section any proprietary information included in the proposal. The person with whom the department contracts for that purpose shall be the person the advisory council selects.

Sec. 5111.111. As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.

The department of job and family services may place a lien against the property of a medical assistance recipient or recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien, the director of job and family services or a person designated by the director may sign a certificate to the effect. The county department of job and family services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described therein for

all amounts of aid which are paid or which thereafter are paid, and shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of job and family services thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

Sec. 5111.151. (A) This section applies to eligibility determinations for all cases involving medical assistance provided pursuant to this chapter, qualified medicare beneficiaries, specified low-income medicare beneficiaries, qualifying individuals-1, qualifying individuals-2, and medical assistance for covered families and children.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse.

(8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:

(1) A countable resource;

(2) Countable income;

(3) A countable resource and countable income;

(4) Not a countable resource or countable income.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services as an available resource to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a Medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(6) The baseline date for the look-back period for transfers of assets involving a medicaid qualifying trust shall be the date on which the

applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving medicaid qualifying trusts:

(a) If a medicaid qualifying trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a medicaid qualifying trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of the assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a medicaid qualifying trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or

recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(d) The date of the transfer shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the transferred resource under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of resources after the foreclosure date shall be considered a separate transfer.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;
(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for transfers of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving self-settled trusts:

(a) If a self-settled trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a self-settled trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of these assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a self-settled trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(F) The principal or income from any of the following shall be exempt from being counted as a resource by a county department of job and family services:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper transfer of resources.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets or countable income or countable assets and income.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust

shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medical assistance. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medical assistance. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any countable income not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as

unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income.

(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

- (i) The department of mental retardation and developmental disabilities;
- (ii) A county board of mental retardation and developmental disabilities;
- (iii) The department of mental health;
- (iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2002 is two hundred fourteen thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 1339.51 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 1339.51 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as an available resource. Terms

of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource.

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income.

Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, all of the following apply:

(1) Not later than July 1, 2004, the department shall designate a portion of the individuals for participation in the care management system.

(2) Individuals shall not be designated for participation unless they reside in a county in which individuals who receive medicaid on another basis have been designated for participation.

(3) If, pursuant to division (B)(2) of this section, the department requires or permits the individuals to obtain health care services through managed care organizations, the department shall select the managed care organizations to be used by the individuals through a request for proposals process. The department shall issue its initial request for proposals not later than December 31, 2003.

(4) Individuals shall not be required to obtain health care services through managed care organizations unless they are at least twenty-one years of age.

(B) Under the care management system, the department may do both of the following:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Subject to division (A)(4) of this section, require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this

section.

Sec. 5111.161. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled.

(B) The department of job and family services shall develop a pilot program under which chronically ill children are included among the medicaid recipients who are required to participate in the care management system established under section 5111.16 of the Revised Code. The pilot program shall be implemented not later than October 1, 2004, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2006, except that the department shall cease operation of the program before that date if either of the following is the case:

(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services;

(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars.

(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The department may extend its operation of the program into the areas surrounding the counties in which the program is operated.

(D) The purpose of the pilot program shall be to determine whether occurrences of acute illnesses and hospitalizations among chronically ill children can be prevented or reduced by establishing a medical home for the children where care is administered proactively and in a manner that is accessible, continuous, family-centered, coordinated, and compassionate. In establishing a medical home for a chronically ill child, all of the following apply:

(1) A physician shall serve as the care coordinator for the child. The care coordinator may be engaged in practice as a pediatrician certified in pediatrics by a medical specialty board of the American medical association or American osteopathic association, a pediatric subspecialist, or a provider for the bureau of children with medical handicaps within the department of health. If the physician is in a group practice, any member of the group

practice may serve as the child's care coordinator. The duties of the care coordinator may be performed by a person acting under the supervision of the care coordinator.

(2) The child may receive care from any health care practitioner appropriate to the child's needs, but the care coordinator shall direct and oversee the child's overall care.

(3) The care coordinator shall establish a relationship of mutual responsibility with the child's parents or other persons who are responsible for the child. Under this relationship, the care coordinator shall commit to developing a long-term disease prevention strategy and providing disease management and education services, while the child's parents or other persons who are responsible for the child shall commit to participate fully in implementing the child's care management plan.

(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care.

(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program.

~~Sec. 5111.17. (A) On receipt of a waiver from the United States department of health and human services of any federal requirement that would otherwise be violated, the~~ The department of job and family services may establish in some or all counties a managed care system under which designated recipients of medical assistance are required to obtain health care services from providers designated by the department.

~~(B) The department may enter into contracts with managed care organizations to authorize, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients participating in a~~ who are required or permitted to obtain health care services through managed care organizations as part of the care management

system established under ~~this~~ section 5111.16 of the Revised Code.

~~(C) For the purpose of determining the amount the department pays~~ hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization under contract with the department to provide hospital services to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the ~~department.~~

~~(D)~~(B) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.171. (A) The department of job and family services may provide financial incentive awards to managed care organizations ~~that under~~ contract with the department ~~under pursuant to section 5111.17 of the Revised Code to provide health care services to participating medical assistance recipients and~~ that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

(B) There is hereby created in the state treasury the health care compliance fund. The fund shall consist of all fines imposed on and collected from managed care organizations for failure to ~~meet~~ meet performance standards or other requirements specified in provider agreements or rules adopted by the department. All investment earnings of the fund shall be credited to the fund. Moneys credited to the fund shall be used solely for the following purposes:

(1) To reimburse managed care organizations that have paid fines for failures to meet performance standards or other requirements and that have come into compliance by meeting requirements as specified by the department;

(2) To provide financial incentive awards established pursuant to division (A) of this section and specified in contracts between managed care organizations and the department.

Sec. 5111.172. When contracting under section 5111.17 of the Revised

Code with a managed care organization that is a health insuring corporation, the department of job and family services may require the health insuring corporation to provide coverage of prescription drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval, use strategies for the management of drug utilization.

Sec. 5111.173. The department of job and family services shall appoint a temporary manager for a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department determines that the managed care organization has repeatedly failed to meet substantive requirements specified in section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 42 C.F.R. 438 Part I. The appointment of a temporary manager does not preclude the department from imposing other sanctions available to the department against the managed care organization.

The managed care organization shall pay all costs of having the temporary manager perform the temporary manager's duties, including all costs the temporary manager incurs in performing those duties. If the temporary manager incurs costs or liabilities on behalf of the managed care organization, the managed care organization shall pay those costs and be responsible for those liabilities.

The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code.

The appointment of a temporary manager does not cause the managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to renew the managed care organization's medicaid provider agreement or the right to initiate the sale of the managed care organization or its assets.

In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.174. The department of job and family services may disenroll some or all medicaid recipients enrolled in a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department proposes to terminate or not to renew the contract and determines that the recipients' access to medically necessary

services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code. The request for, or conduct of, a reconsideration regarding a proposed disenrollment shall not delay the disenrollment.

In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.175. For the purpose of determining the amount the department of job and family services pays hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code authorizing the organization to provide, or arrange for the provision of, hospital services to medicaid recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the services, payments made by the organization to the hospital for the services, utilization of hospital services by medicaid recipients enrolled in the organization, and other utilization data required by the department.

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Capital costs" means costs of ownership and nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;

(iii) Equipment;

(iv) Extensive renovations;

- (v) Transportation equipment.
- (b) Amortization and interest on land improvements and leasehold improvements;
- (c) Amortization of financing costs;
- (d) Except as provided in division (I) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.

(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(D) "Case-mix score" means the measure determined under section 5111.231 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(F) "Desk-reviewed" means that costs as reported on a cost report

submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(G) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in division (G)(2)(a) of this section.

(3) Costs of other direct-care resources that are specified as direct care costs in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code.

(H) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(I) "Indirect care costs" means all reasonable costs other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants,

medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, ~~consumer satisfaction survey fees paid under section 173.55 of the Revised Code~~, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in this division. Notwithstanding division (B)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(J) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(K) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medical assistance program by the director of health in accordance with Title XIX of the "Social Security Act."

(L) "Maintenance and repair expenses" means, except as provided in division (X)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(M) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a

distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is certified as a skilled nursing facility by the director in accordance with Title XVIII of the "Social Security Act."

(N) "Other protected costs" means costs for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code.

(O) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in a nursing facility or intermediate care facility for the mentally retarded.

(P) "Patient" includes "resident."

(Q) Except as provided in divisions (Q)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.24 or 5111.241 of the Revised Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.25 or 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(R) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under a provider agreement.

(S) "Provider agreement" means a contract between the department of job and family services and a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program.

(T) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(U) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(V) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(W) "Relative of owner" means an individual who is related to an owner

of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

- (1) Spouse;
 - (2) Natural parent, child, or sibling;
 - (3) Adopted parent, child, or sibling;
 - (4) Step-parent, step-child, step-brother, or step-sister;
 - (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
 - (6) Grandparent or grandchild;
 - (7) Foster caregiver, foster child, foster brother, or foster sister.
- (X) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (X)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, ~~and 5111.02, and 5111.211~~ of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.

In order to be eligible for medical assistance payments, a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

(B) A nursing facility that elects to obtain and maintain eligibility for payments under the ~~medicare~~ medicaid program ~~established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may~~ shall qualify all ~~or part of the facility of the facility's~~ medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

Sec. 5111.211. (A) The department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

(4) There is a valid provider agreement for the facility.

(B) Each month, the department of job and family services shall invoice the department of mental retardation and developmental disabilities by interagency transfer voucher for the claims for which the department of mental retardation and developmental disabilities is responsible pursuant to this section.

Sec. 5111.22. A provider agreement between the department of job and family services and a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to:

(1) ~~Make~~ make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program as provided in sections 5111.20 to 5111.32 of the Revised Code. No payment shall be made for the day a recipient is discharged from the facility.

(2) ~~Provide copies of rules governing the facility's participation as a provider in the medical assistance program. Whenever the director of job and family services files a proposed rule or proposed rule in revised form under division (D) of section 111.15 or division (B) of section 119.03 of the Revised Code, the department shall provide the facility with one copy of such rule. In the case of a rescission or proposed rescission of a rule, the department may provide the rule number and title instead of the rules rescinded or proposed to be rescinded.~~

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent

with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted by the director pursuant to Chapter 119. of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of the recipients or of the state.

Sec. 5111.251. (A) The department of job and family services shall pay each eligible intermediate care facility for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division (I) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the Revised Code is used to

reimburse the government agency.

(B) The department of job and family services shall pay to each intermediate care facility for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments to intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but

prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were

originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be

renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of

ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility or, regardless of whether the department gives prior approval, if the facility obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section unless the facility obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.24 of the Revised Code, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After June 30, 1980, the owner of an intermediate care facility for the mentally retarded operating under a provider agreement shall provide written notice to the department of job and family services at least forty-five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program. After the date on which a transaction of sale is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If an intermediate care facility for the mentally retarded is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation

under a provider agreement, the owner shall not refund any excess depreciation to the department. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the facility.

A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated depreciation, the sales price, and other information required by the department. The department shall provide for a bank, trust company, or savings and loan association to hold in escrow the amount of the last two monthly payments to an intermediate care facility for the mentally retarded made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or voluntary termination of participation or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first two monthly payments made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility. If the amount the owner will be required to refund under this section is likely to be less than the amount of the two monthly payments otherwise put into escrow under this division, the department shall take one of the following actions instead of withholding the amount of the two monthly payments:

(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;

(2) In the case of all other owners, withhold the amount of the last monthly payment to the intermediate care facility for the mentally retarded or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.

The department shall, within ninety days following the filing of the cost report, audit the report and issue an audit report to the owner. The

department also may audit any other cost reports for the facility that have been filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the intermediate care facility for the mentally retarded. The findings shall be subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.

If an intermediate care facility for the mentally retarded is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination of participation. After written notice is received from an intermediate care facility for the mentally retarded that a sale or termination of participation will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.

(I) The department of job and family services shall pay each eligible proprietary intermediate care facility for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is

applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division (J)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division (J)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules the department shall adopt in accordance with Chapter 119. of the Revised Code no later than December 31, 2000. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (J)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for

capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.34. (A) There is hereby created the nursing facility reimbursement study council consisting of the following ~~seventeen~~ eighteen members:

(1) The director of job and family services;

(2) The deputy director of the office of Ohio health plans of the department of job and family services;

(3) An employee of the governor's office;

(4) The director of health;

(5) The director of aging;

(6) Three members of the house of representatives, not more than two of whom are members of the same political party, appointed by the speaker of the house of representatives;

(7) Three members of the senate, not more than two of whom are members of the same political party, appointed by the president of the senate;

(8) One representative of medicaid recipients residing in nursing facilities, appointed by the governor;

(9) Two representatives of each of the following organizations, appointed by their respective governing bodies:

(a) The Ohio academy of nursing homes;

(b) The association of Ohio philanthropic homes and housing for the aging;

(c) The Ohio health care association.

Initial appointments of members described in divisions (A)(6), (7), and ~~(8)~~(9) of this section shall be made no later than ninety days after June 6, 2001, except that the initial appointments of the two additional members described in divisions (A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after ~~the effective date of this amendment~~ March 14, 2002. Initial appointment of the member described in division (A)(8) of this section shall be made not later than ninety days after the effective date of this amendment. Vacancies in any of those appointments shall be filled in the same manner as original appointments. The members described in divisions

(A)(6), (7), ~~and (8), and (9)~~ of this section shall serve at the pleasure of the official or governing body appointing the member. The members described in divisions (A)(1), (2), (3), (4), and (5) of this section shall serve for as long as they hold the position that qualifies them for membership on the council. The speaker of the house of representatives and the president of the senate jointly shall appoint the chairperson of the council. Members of the council shall serve without compensation.

(B) The council shall review, on an ongoing basis, the system established by sections 5111.20 to 5111.32 of the Revised Code for reimbursing nursing facilities under the medical assistance program. The council shall recommend any changes it determines are necessary. The council shall issue a report of its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate not later than July 30, 2004. Thereafter, the council periodically shall report its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate.

(C) The council shall meet quarterly. Its first quarterly meeting after the effective date of this amendment shall be held not later than August 1, 2003.

Sec. 5111.85. (A) As used in this section, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.

1315 or 1396n. "Medicaid waiver component" does not include a ~~managed~~ care management system established under section ~~5111.17~~ 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of services the medicaid waiver components provide;
- (3) The conditions under which the medicaid waiver components cover services;
- (4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;
- (5) The manner in which the medicaid waiver components pay for services;
- (6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

(8) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.

Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services may apply to the United States secretary of health and human services for ~~one~~ both of the following:

(1) One or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded;

(2) One or more medicaid waivers that operate for three to four years each and under which home and community-based services are provided in the form of either or both of the following:

(a) Early intervention services for children under three years of age that are provided or arranged by county boards of mental retardation and developmental disabilities;

(b) Therapeutic services for children who have autism and are under six years of age at the time of enrollment. ~~Before the director applies~~

(C) No individual may receive services under an autism component of the medicaid program established under a waiver sought under division (B)(2)(b) of this section for more than three years. An individual receiving intensive therapeutic services under such an autism component is forever

ineligible to receive intensive therapeutic services, under any other component of the medicaid program.

(D) The director of mental retardation and developmental disabilities may request that the director of job and family services apply for one or more medicaid waivers under this section.

(E) Before applying for a waiver under this section, the director of job and family services shall seek, accept, and consider public comments.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the component components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers ~~from the United States secretary of health and human services~~ pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medicaid recipients with home and community-based services as an alternative to placement in ~~an intermediate care facility for the mentally retarded~~ sought under section 5111.87 of the Revised Code. The contract shall provide for the department of mental retardation and developmental disabilities to administer the component components in accordance with the terms of the ~~waiver~~ waivers. The directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the component components.

If the department of mental retardation and developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under ~~this~~ any of these medicaid component components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under ~~this~~ any of these medicaid component components. The departments shall consider the recommendations a county board of mental retardation and developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living or residential services, as defined in section 5126.01 of the Revised Code, are to be provided under ~~this component~~ any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 or certificate under section 5123.045 or 5126.431 of the Revised Code may provide the services.

Sec. 5111.872. When the department of mental retardation and developmental disabilities allocates enrollment numbers to a county board of mental retardation and developmental disabilities for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under any of the ~~component~~ components of the medicaid program that the department administers under section 5111.871 of the Revised Code, the department shall consider all of the following:

(A) The number of individuals with mental retardation or other developmental disability who are on a waiting list the county board establishes under division (C) of section 5126.042 of the Revised Code for those services and are given priority on the waiting list pursuant to division (D) or (E) of that section;

(B) The implementation component required by division (A)(4) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

(C) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements of ~~division~~ divisions (D) and (E) of section 5126.042 of the Revised Code.

Sec. 5111.873. (A) Not later than the effective date of the first of any medicaid waivers the United States secretary of health and human services grants pursuant to a request made under section 5111.87 of the Revised Code, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide fee schedules for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the ~~component~~ components of the medicaid program that the department of mental retardation and developmental disabilities administers under section 5111.871 of the Revised Code. The rules shall provide for all of the following:

(1) The department of mental retardation and developmental disabilities arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and government entities

providing the services at the time the information is obtained;

(2) The collection of consumer-specific information through an assessment instrument the department of mental retardation and developmental disabilities shall provide to the department of job and family services;

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, methods and standards for calculating the fee schedules that do all of the following:

(a) Assure that the fees are consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules under this section, the director shall consult with the director of mental retardation and developmental disabilities, representatives of county boards of mental retardation and developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The directors of job and family services and mental retardation and developmental disabilities shall review the rules adopted under this section at times they determine to ensure that the methods and standards established by the rules for calculating the fee schedules continue to do everything that division (A)(3) of this section requires.

Sec. 5111.88. (A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The department may limit the number of program participants.

To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) Be a recipient of medicaid-funded nursing facility services, at the

time of applying for the benefits;

(2) Have resided continuously in a nursing facility for not less than eighteen months prior to applying to participate in the project;

(3) Need the level of care provided by nursing facilities;

(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;

(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.

(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.

(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

(C) How providers will be paid for providing the services;

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including program oversight and quality assurance.

Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of mental health and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers.

Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of alcohol and drug addiction services and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of alcohol and drug addiction services administers.

Sec. 5111.92. (A)(1) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved, and for which federal financial participation was initially obtained, prior to January 1, 2002, or administers one or more aspects of such a component, the department of job and family services may retain or collect not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. If the department retains or collects a percentage of such federal financial participation, the percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(2) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved on or after January 1, 2002, or administers one or more aspects of such a component, the department of job and family services shall retain or collect not less than three and not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. The percentage the department retains or collects

shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(B) The department of job and family services may retain or collect a percentage of federal financial participation under divisions (A)(1) and (2) of this section only to the extent permitted by federal statutes and regulations and shall not retain or collect a percentage of federal financial participation obtained pursuant to section 5126.058 of the Revised Code.

(C) All amounts the department retains or collects under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in

the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.95. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment or, after the effective date of this section, an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. "Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities after the effective date of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs.

(4) "Home and community-based waiver services" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital. Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan.

(B)(1) The chief administrator of a waiver agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may

request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under division (B)(1) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position in a waiver agency for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of job and family services in accordance with division (F) of this section and subject to division (C)(2) of this section, no waiver agency shall employ a person in a position that involves providing home and community-based waiver services to persons with disabilities if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A waiver agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment.

(b) A waiver agency that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check request under division (B) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A waiver agency may charge an applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;

(3) A court, hearing officer, or other necessary individual involved in a

case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.

(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies.

(2) This section shall not apply to a person to whom all of the following apply:

(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities.

(b) The person previously had been the subject of a criminal background check relating to that position;

(c) The person has been continuously employed in that position since that criminal background check had been conducted.

Sec. 5111.96. (A) As used in this section:

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after the effective date of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "The department" means the department of job and family services or its designee.

(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an

independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities.

(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code.

(B)(1) The department shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program.

(2) Beginning on the effective date of this section, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted.

(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the department shall request the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department shall do both of the following:

(a) Provide information to each independent provider for whom a criminal records check request is required under division (C)(1) of this section about requesting a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint

impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet and fee from the independent provider;

(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation.

(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider.

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following:

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the

Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The administrator at the department who is requesting the criminal records check or the administrator's representative;

(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

Sec. 5111.97. (A) The director of job and family services may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two medicaid home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section. In the request, the director may specify the following:

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;

(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;

(3) That there will be a maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program;

(4) That there will be a maximum amount the department may expend each year for each individual enrolled in the replacement programs;

(5) That there will be a maximum aggregate amount the department may expend each year for all individuals enrolled in the replacement programs;

(6) Any other requirement the director selects for the replacement programs.

(B) If the secretary grants the medicaid waivers requested, the director may create and implement the replacement programs in accordance with the provisions of the waivers granted. The department of job and family services shall administer the replacement programs.

As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program.

Sec. 5112.03. (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

- (1) Recipients of the medical assistance program;
- (2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;
- (3) Recipients of ~~disability assistance~~ medical assistance provided under Chapter 5115. of the Revised Code;
- (3)(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;
- (4)(5) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;
- (5)(6) Recipients of Title V of the "Social Security Act";
- (6)(7) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

- (1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;
- (2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and disability recipients of financial or medical assistance established provided under Chapter 5115. of the Revised Code;
- (3) The amount of uncompensated care provided by the hospital or group of hospitals;
- (4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund and the hospital care assurance match fund created under section 5112.18 of the Revised Code is insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount is insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline.

Recipients of disability financial assistance and recipients of disability medical assistance provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital

services in accordance with state or local law.

Sec. 5112.31. The department of job and family services shall:

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and ~~twenty-four~~ sixty-three cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, the department shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty of ~~one hundred dollars~~ for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers, the director shall impose a penalty of ten per cent of the amount due, ~~not to exceed twenty thousand dollars~~, on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section 5112.03 of the Revised Code.

(C) The director shall waive the penalties provided for in divisions (A) and (B) of this section for good cause shown by the hospital.

(D) All penalties imposed under this section shall be deposited into the general revenue health care administration fund created by section 5111.94 of the Revised Code.

Sec. 5115.01. (A) ~~There is hereby established~~ The director of job and family services shall establish the disability financial assistance program. Except as provided in division (D) of this section, a disability assistance recipient shall receive financial assistance. Except as provided in section 5115.11 of the Revised Code, a disability assistance recipient also shall ~~receive disability assistance medical assistance.~~

Except as provided by division (B) of this section, a person who meets ~~all of the following requirements is~~ (B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability financial assistance program, a person may be eligible for disability financial assistance only if one of the following applies:

(1) The person is ~~ineligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code and to receive supplemental security income provided pursuant to Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;~~

(2) ~~The person is at least one of the following:~~

(a) ~~Under age eighteen;~~

(b) ~~Age sixty or older;~~

(c) ~~Pregnant;~~

(d) ~~Unable~~ unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months;

(e) A resident of a residential treatment center certified as an alcohol or drug addiction program by the department of alcohol and drug addiction ~~services under section 3793.06 of the Revised Code.~~

(f) Medication dependent as determined by a physician, as defined in section 4730.01 of the Revised Code, who has certified to the county department of job and family services that the person is receiving ongoing treatment for a chronic medical condition requiring continuous prescription medication for an indefinite, long-term period of time and for whom the loss of the medication would result in a significant risk of medical emergency ~~and loss of employability lasting at least nine months.~~

(3) ~~The~~ (2) On the day before the effective date of this amendment, the person meets the eligibility requirements established in rules adopted under section 5115.05 of the Revised Code was sixty years of age or older and one of the following is the case:

(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older;

(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application.

(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of ~~the following~~:

- ~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~
- ~~(b) The time limit established by section 5107.18 of the Revised Code;~~
- ~~(c) Failure to comply with an application or verification procedure;~~
- ~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~

(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same ineligible assistance group. A person age eighteen or older is ineligible for disability assistance pursuant to division (B)(1)(a) of this section regardless of whether the person caused the assistance group to be ~~ineligible to participate in the Ohio works first program~~.

(C) The county department of job and family services that serves the county in which a person receiving disability assistance pursuant to division (A)(2)(e) of this section participates in an alcohol or drug addiction program shall designate a representative payee for purposes of receiving and distributing financial assistance provided under the disability assistance ~~program to the person~~.

(D) A person eligible for disability assistance pursuant to division ~~(A)(2)(f) of this section shall not receive financial assistance~~.

(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition ~~of disability assistance eligibility pursuant to this section~~.

Sec. ~~5115.04~~ 5115.02. (A) An individual is not eligible for disability financial assistance under this chapter if ~~either~~ any of the following apply:

~~(A)(1) The individual is eligible to participate in the Ohio works first~~ program established under Chapter 5107. of the Revised Code; eligible to receive supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1383, as amended; or eligible to participate in or receive assistance through another state or

federal program that provides financial assistance similar to disability financial assistance, as determined by the director of job and family services;

(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:

(a) The time limit established by section 5107.18 of the Revised Code;

(b) Failure to comply with an application or verification procedure;

(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;

(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;

(e) The minor parent provisions of section 5107.24 of the Revised Code;

(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.

(3) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;

(4) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;

(5) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;

(6) The individual reside in a county home, city infirmary, jail, or public institution;

(7) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;

~~(B)(8)~~ The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.

(B)(1) As used in division (B)(2) of this section, "assistance group" has the same meaning as in section 5107.02 of the Revised Code.

(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows:

(a) In the case of an individual who is under eighteen years of age, the individual is ineligible only if the individual caused the assistance group to

be ineligible to participate in the Ohio works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group.

(b) In the case of an individual who is eighteen years of age or older, the individual is ineligible regardless of whether the individual caused the assistance group to be ineligible to participate in the Ohio works first program.

Sec. 5115.03. (A) The director of job and family services shall do both of the following:

(A) ~~Adopt~~ adopt rules in accordance with section 111.15 of the Revised Code governing the administration of disability assistance, including the administration of financial assistance and disability assistance medical assistance program. The rules shall be binding on county departments of job and family services.

(B) ~~Make investigations to determine whether disability assistance is being administered in compliance with the Revised Code and rules adopted by the director.~~ may establish or specify any or all of the following:

(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program;

(2) Limits on the length of time an individual may receive disability financial assistance;

(3) Limits on the total number of individuals in the state who may receive disability financial assistance;

(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance;

(5) Procedures for disregarding amounts of earned and unearned income for the purpose of determining eligibility for disability financial assistance and the amount of assistance to be provided;

(6) Procedures for including the income and resources, or a certain amount of the income and resources, of a member of an individual's family when determining eligibility for disability financial assistance and the amount of assistance to be provided.

(B) In establishing or specifying eligibility requirements for disability financial assistance, the director shall exclude the value of any tuition payment contract entered into under section 3334.09 of the Revised Code or any scholarship awarded under section 3334.18 of the Revised Code and the amount of payments made by the Ohio tuition trust authority under section 3334.09 of the Revised Code pursuant to the contract or scholarship. The director shall not require any individual to terminate a tuition payment contract entered into under Chapter 3334. of the Revised Code as a

condition of eligibility for disability financial assistance. The director shall consider as income any refund paid under section 3334.10 of the Revised Code.

(C) Notwithstanding section 3109.01 of the Revised Code, when a disability financial assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. In the rules adopted under this section, the director shall specify procedures for determining the amount of income to be attributed to applicants and recipients in this age category.

(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following:

(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director;

(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications.

~~Sec. 5115.02 5115.04. (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services, including making determinations of financial eligibility and initial determinations of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code, distributing financial assistance payments, reimbursing providers of medical services for services provided to disability assistance recipients, and any other function specified in the rules. The department may also require county departments to make a final determination of whether an applicant meets a condition for eligibility under division (A)(2)(a), (b), (c), (e), or (f) of section 5115.01 of the Revised Code. The department shall make the final determination of whether an~~

applicant meets a condition of eligibility under division (A)(2)(d) of section ~~5115.01 of the Revised Code.~~

(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director.

(C) If disability financial assistance payments ~~or medical services reimbursements~~ are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments ~~or reimbursements~~. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code.

Sec. 5115.05. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements the director considers necessary in the administration of the application process for disability financial assistance. The rules may provide for disregarding amounts of earned and unearned income for the purpose of determining whether an assistance group is eligible for assistance and the amount of assistance provided under this chapter. The rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid provided under this chapter.

~~If financial assistance under this chapter is to be paid by the auditor of state through the medium of direct deposit, the application shall be accompanied by information the auditor needs to make direct deposits.~~

~~The department of job and family services may require recipients of disability financial assistance to participate in a reapplication process two months after initial approval for assistance has been determined and at such other times as specified in the department requires rules.~~

~~If a recipient of disability assistance, or the spouse of or member of the assistance group of a recipient, becomes possessed of resources or income in excess of the amount allowed under rules adopted under this section, or if~~

other changes occur that affect the person's eligibility or need for assistance, the recipient shall notify the department or county department of job and family services within the time limits specified in the rules. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.15 of the Revised Code.

~~Each applicant for or recipient of disability assistance shall make~~ reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, as a means of preventing or reducing the provision of disability assistance at public expense. The department or county department may provide assistance to the applicant or recipient in securing other forms of financial or medical assistance.

~~Notwithstanding section 3109.01 of the Revised Code, when a disability~~ assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. The director shall adopt rules for determining the amount of income to be attributed to the assistance ~~group of applicants in this age category.~~

(B) Any person who applies for disability financial assistance ~~under this section~~ shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. ~~5115.07~~ 5115.06. ~~Financial assistance~~ Assistance under the disability financial assistance program may be given by warrant, direct deposit, or, if provided by the director of job and family services pursuant to section 5101.33 of the Revised Code, by electronic benefit transfer. It shall be inalienable whether by way of assignment, charge, or otherwise, and is exempt from attachment, garnishment, or other like process. ~~Any~~

Any direct deposit shall be made to a financial institution and account designated by the recipient. ~~The~~ If disability financial assistance is to be paid by the auditor of state through direct deposit, the application for assistance shall be accompanied by information the auditor needs to make direct deposits.

The director of job and family services may adopt rules for designation of financial institutions and accounts. ~~No~~

No financial institution shall impose any charge for direct deposit of disability ~~assistance~~ financial assistance payments that it does not charge all customers for similar services.

The department of job and family services shall establish financial ~~assistance payment amounts based on state appropriations.~~

Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if the child is married, ~~serving in the armed forces, or has been emancipated by court order.~~

No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of the person's eligibility for disability assistance or a greater amount of assistance, the person has transferred property during the two years preceding application ~~for or most recent redetermination of eligibility for disability assistance.~~

Sec. ~~5115.13~~ 5115.07. The acceptance of ~~disability~~ financial assistance under ~~this chapter~~ the disability financial assistance program constitutes an assignment to the department of job and family services of any rights an individual receiving ~~disability~~ the assistance has to financial support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability financial assistance payments to the recipient or recipients whose needs are included in determining the amount of ~~disability~~ assistance received. Support payments assigned to the state pursuant to this section shall be collected by the county department of job and family services and reimbursements for disability financial assistance payments shall be credited to the state treasury.

Sec. 5115.10. (A) The director of job and family services shall establish a disability assistance medical assistance program shall consist of a system of managed primary care. ~~Until July 1, 1992, the program shall also include limited hospital services, except that if prior to that date hospitals are required by section 5112.17 of the Revised Code to provide medical services without charge to persons specified in that section, the program shall cease to include hospital services at the time the requirement of section 5112.17 of the Revised Code takes effect.~~

The department of job and family services may require disability assistance medical assistance recipients to enroll in health insuring corporations or other managed care programs, or may limit the number or ~~type of health care providers from which a recipient may receive services.~~

The director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. ~~The rules shall specify all of the following:~~

(1) Services that will be provided under the system of managed primary care;

(2) Hospital services that will be provided during the period that ~~hospital services are provided under the program;~~

(3) The maximum authorized amount, scope, duration, or limit of ~~payment for services.~~

(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider ~~enter into a provider agreement with the state department.~~

(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the ~~time the care was rendered, if all of the following apply:~~

(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division

~~(D) of this section are met, while in the hospital;~~

(2) The person met all eligibility requirements for disability assistance ~~at the time the care was rendered;~~

(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted ~~by the director of job and family services.~~

(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face-to-face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county department designates an employee of the hospital to conduct the interview,

~~the interview shall be conducted by the hospital employee.~~

~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance~~

(B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability medical assistance program, a person may be eligible for disability medical assistance only if the person is medication dependent, as determined by the department of job and family services.

(C) The director shall adopt rules under section 111.15 of the Revised Code for purposes of implementing division (B) of this section. The rules may specify or establish any or all of the following:

(1) Standards for determining whether a person is medication dependent, including standards under which a person may qualify as being medication dependent only if it is determined that both of the following are the case:

(a) The person is receiving ongoing treatment for a chronic medical condition that requires continuous prescription medication for an indefinite, long-term period of time;

(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.

(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent.

~~Sec. 5115.11. If a member of an assistance group receiving disability assistance under this chapter~~ An individual who qualifies for the medical assistance program established under Chapter 5111. of the Revised Code, ~~the member~~ shall receive medical assistance through that program rather than through the disability ~~assistance~~ medical assistance program.

An individual is ineligible for disability medical assistance if, for the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability medical assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability medical assistance.

Sec. 5115.12. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the disability medical assistance program. The rules may establish or specify any or all of the following:

(1) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements;

(2) Health services to be included in the program;

(3) The maximum authorized amount, scope, duration, or limit of payment for services;

(4) Limits on the length of time an individual may receive disability medical assistance;

(5) Limits on the total number of individuals in the state who may receive disability medical assistance.

(B) For purposes of limiting the cost of the disability medical assistance program, the director may do either of the following:

(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements; the maximum authorized amount, scope, duration, or limit of payment for services included in the program; or any other requirement or standard established or specified by rules adopted under division (A) of this section or under section 5115.10 of the Revised Code;

(2) Suspend acceptance of applications for disability medical assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability medical assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications.

Sec. 5115.13. (A) The department of job and family services shall supervise and administer the disability medical program, except as follows:

(1) The department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services.

(2) The director may contract with any private or public entity in this state to perform any administrative function or to administer any or all of the program.

(B) If the department requires county departments to perform administrative functions, the director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the

rules.

If the director contracts with a private or public entity to perform administrative functions or to administer any or all of the program, the director may either adopt rules in accordance with section 111.15 of the Revised Code or include provisions in the contract governing the performance of the functions by the private or public entity. Entities under contract shall perform the functions in accordance with the requirements established by the director.

(C) Whenever division (A)(1) or (2) of this section is implemented, the director shall conduct investigations to determine whether disability medical assistance is being administered in compliance with the Revised Code and rules adopted by the director or in accordance with the terms of the contract.

Sec. 5115.14. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and other requirements the director considers necessary in the administration of the application process for disability medical assistance.

(B) Any person who applies for disability medical assistance shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and county departments shall cooperate in efforts to assist applicants for and recipients of assistance under this chapter the disability financial assistance program and the disability medical assistance program, who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits. The

As part of their disability advocacy programs, the state department and county departments may enter into contracts for the services to applicants for and recipients of assistance under this chapter who might be eligible for supplemental security income benefits with of persons and governmental government entities that in the judgment of the department or county department have demonstrated expertise in representing persons seeking supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to

be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist the person in applying and represent the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of disability financial assistance or disability medical assistance ~~under this chapter~~ who, in the judgment of the department or a county department might be eligible for supplemental security benefits, ~~must~~ shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) ~~Each~~ With regard to applicants for and recipients of disability financial assistance or disability medical assistance, each county department of job and family services shall do all of the following:

(1) Identify applicants ~~for and recipients of assistance under this chapter~~ who might be eligible for supplemental security income benefits;

(2) Assist applicants ~~for and recipients of assistance under this chapter~~ in securing documentation of disabling conditions or refer them for such assistance to a person or government ~~agency~~ entity with which the department or county department has contracted under division (A) of this section;

(3) Inform applicants ~~for and recipients of assistance under this chapter~~ of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government ~~agency~~ entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants ~~for and recipients of assistance under this chapter~~ who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for medical assistance under Chapter 5111. of the

Revised Code, make determinations when appropriate as to eligibility for medical assistance, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant for and each recipient of assistance under this chapter who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance or disability medical assistance under this chapter, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance or disability medical assistance under this chapter in the county;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have

been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.23 of the Revised Code.

(B) As a condition of eligibility for disability financial assistance or disability medical assistance, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide assistance to individuals with disabilities. The state or county department of job and family services may provide assistance to the applicant or recipient in securing other forms of financial assistance.

~~Sec. 5115.15~~ 5115.23. As used in this section, "erroneous payments" means disability financial assistance payments, ~~including or~~ disability ~~assistance~~ medical assistance payments, made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of job and family services that made

the payment.

The department of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code specifying the circumstances under which action is to be taken under this section to recover erroneous payments. The department, or a county department of job and family services at the request of the department, shall take action to recover erroneous payments in the circumstances specified in the rules. The department or county department may institute a civil action to recover erroneous payments.

Whenever disability financial assistance or disability medical assistance has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all ~~disability~~ assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of job and family services.

Each county department of job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The department of job and family services shall receive the remaining fifty per cent.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at

least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve

compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(H) Develop and operate a community mental health information system.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised

Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any information for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards.

(I) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by

the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A board of alcohol, drug addiction, and mental health services may not contract with a community mental health agency under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health services included in the board's community mental health plan unless the services are certified by the director of mental health under this section.

A community mental health agency that seeks the director's certification of its community mental health services shall submit an application to the director. On receipt of the application, the director may visit and shall evaluate the agency to determine whether its services satisfy the standards established by rules adopted under division (C) of this section. The director shall make the evaluation, and, if the director visits the agency, shall make the visit, in cooperation with the board of alcohol, drug addiction, and mental health services with which the agency seeks to contract.

If the director determines that a community mental health agency's services satisfy the standards, the director shall certify the services.

If the director determines that a community mental health agency's services do not satisfy the standards, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and offer technical assistance to the board of alcohol, drug addiction, and mental health services so that the board may assist the agency in satisfying the standards. The director shall give the agency a reasonable time within which to demonstrate that its services satisfy the standards or to bring the services into compliance with the standards. If the director concludes that the services continue to fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

(B) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the

certification review required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
- (b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;
- (c) Seclusion;
- (d) Restraint;
- (e) Development of written policies addressing the rights of clients, including all of the following:
 - (i) The right to a copy of the written policies addressing client rights;
 - (ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;
 - (iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;
 - (iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.

(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;

(3) Establish the process for certification of community mental health services;

(4) Set the amount of certification review fees based on a portion of the cost of performing the review;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.

(D) The rules adopted under division (C)(1) of this section to establish certification standards for assertive community treatment and intensive home-based mental health services shall be adopted not later than July 1, 2004.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of mental retardation and developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

(G) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(H) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under ~~a the~~ the medicaid ~~component~~ components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(I) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(J) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(K) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(L) "Managing officer" means a person who is appointed by the director of mental retardation and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(M) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(N) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(O) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(P) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(Q) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(R) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(S) "Developmentally disabled person" means a person with a developmental disability.

(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(U) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former

Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(V)(1) "Resident" means, subject to division (R)(2) of this section, a

person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(W) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(X) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(Y) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Z) "Court" means the probate division of the court of common pleas.

Sec. 5123.051. (A) If the department of mental retardation and developmental disabilities determines pursuant to an audit conducted under section 5123.05 of the Revised Code or a reconciliation conducted under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code that money is owed the state by a provider of a service or program, the department may enter into a payment agreement with the provider. The agreement shall include the following:

(1) A schedule of installment payments whereby the money owed the state is to be paid in full within a period not to exceed one year;

(2) A provision that the provider may pay the entire balance owed at any time during the term of the agreement;

(3) A provision that if any installment is not paid in full within forty-five days after it is due, the entire balance owed is immediately due and payable;

(4) Any other terms and conditions that are agreed to by the department and the provider.

(B) The department may include a provision in a payment agreement that requires the provider to pay interest on the money owed the state. The department, in its discretion, shall determine whether to require the payment

of interest and, if it so requires, the rate of interest. Neither the obligation to pay interest nor the rate of interest is subject to negotiation between the department and the provider.

(C) If the provider fails to pay any installment in full within forty-five days after its due date, the department shall certify the entire balance owed to the attorney general for collection under section 131.02 of the Revised Code. The department may withhold funds from payments made to a provider under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to satisfy a judgment secured by the attorney general.

(D) The purchase of service fund is hereby created. Money credited to the fund shall be used solely for purposes of section 5123.05 of the Revised Code.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194, 5123.196, 5123.198, 5123.1910, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Supported living" has the same meaning as in section 5126.01 of the Revised Code.

(5) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was

issued under this section.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) ~~The Subject to section 5123.196 of the Revised Code, the~~ director of mental retardation and developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to

a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of such proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also notify each affected resident, the resident's guardian if the resident is an adult for whom a guardian has been appointed, the resident's parent or guardian if the resident is a minor, and the county board of mental retardation and developmental disabilities.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in

compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are

agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the close of the hearing.

(e) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(f) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(g) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under

this section.

(H) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section and except as provided in section 5123.1910 of the Revised Code, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license.

(J) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter

119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of such notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(K) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(L) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(M) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the clerk of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(P) This section does not prohibit a political subdivision from applying

to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(Q) Divisions (N) and (O) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(R)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(S) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of such rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986.

(T) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.196. (A) Except as provided in divisions (E) and (F) of this section, the director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds that cease to be residential facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered in accordance with section 5123.19 of the Revised Code and after the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility bed if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility in which the bed was located.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) If required by section 5123.1910 of the Revised Code to issue a license under section 5123.19 of the Revised Code, the director shall issue the license regardless of whether issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(F) The director may issue an interim license under division (R) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted

under division (G)(11) of that section, a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

Sec. 5123.198. (A) As used in this section, "date of the commitment" means the date that an individual specified in division (B) of this section begins to reside in a state-operated intermediate care facility for the mentally retarded after being committed to the facility pursuant to sections 5123.71 to 5123.76 of the Revised Code.

(B) Except as provided in division (C) of this section, whenever a resident of a residential facility is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of mental retardation and developmental disabilities, pursuant to an adjudication order issued in accordance with Chapter 119. of the Revised Code, shall reduce by one the number of residents for which the facility in which the resident resided is licensed.

(C) The department shall not reduce under division (B) of this section the number of residents for which a residential facility is licensed if any of the following are the case:

(1) The resident of the residential facility who is committed to a state-operated intermediate care facility for the mentally retarded resided in the residential facility because of the closure, on or after the effective date of this section, of another state-operated intermediate care facility for the mentally retarded;

(2) The residential facility admits within ninety days of the date of the commitment an individual who resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(3) The department fails to do either of the following within ninety days of the date of the commitment:

(a) Identify an individual to whom all of the following applies:

(i) Resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(ii) Has indicated to the department an interest in relocating to the residential facility or has a parent or guardian who has indicated to the department an interest for the individual to relocate to the residential facility;

(iii) The department determines the individual has needs that the residential facility can meet.

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of the following not later than ninety days after the date of the commitment:

(a) Evaluates the information provided by the department;

(b) Assesses the identified individual's needs;

(c) Determines that the residential facility cannot meet the identified individual's needs.

(5) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and the residential facility determines that the residential facility can meet the identified individual's needs, the individual, or a parent or guardian of the individual, refuses placement in the residential facility.

(D) The department may reduce under division (B) of this section the number of residents for which a residential facility is licensed even though the residential facility completes the actions specified in division (C)(4) of this section not later than ninety days after the date of the commitment if all of the following are the case:

(1) The department disagrees with the residential facility's determination that the residential facility cannot meet the identified individual's needs.

(2) The department issues a written decision pursuant to the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(9) of section 5123.19 of the Revised Code that the residential facility should admit the identified individual.

(3) After the department issues the written decision specified in division (D)(2) of this section, the residential facility refuses to admit the identified individual.

(E) A residential facility that admits, refuses to admit, transfers, or discharges a resident under this section shall comply with the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(9) of section 5123.19 of the Revised Code.

(F) The department of mental retardation and developmental disabilities may notify the department of job and family services of any reduction under

this section in the number of residents for which a residential facility that is an intermediate care facility for the mentally retarded is licensed. On receiving the notice, the department of job and family services may transfer to the department of mental retardation and developmental disabilities the savings in the nonfederal share of medicaid expenditures for each fiscal year after the year of the commitment to be used for costs of the resident's care in the state-operated intermediate care facility for the mentally retarded. In determining the amount saved, the department of job and family services shall consider medicaid payments for the remaining residents of the facility in which the resident resided.

Sec. ~~5111.252~~ 5123.199. (A) As used in this section:

(1) "Contractor" means a person or government agency that has entered into a contract with the department of mental retardation and developmental disabilities under this section.

(2) "Government agency" and "residential services" have the same meanings as in section 5123.18 of the Revised Code.

(3) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(4) "Respite care services" has the same meaning as in section 5123.171 of the Revised Code.

(B) The department of mental retardation and developmental disabilities may enter into a contract with a person or government agency to do any of the following:

(1) Provide residential services in an intermediate care facility for the mentally retarded to an individual who meets the criteria for admission to such a facility but is not eligible for assistance under ~~this chapter~~ Chapter 5111. of the Revised Code due to unliquidated assets subject to final probate action;

(2) Provide respite care services in an intermediate care facility for the mentally retarded;

(3) Provide residential services in a facility for which the person or government agency has applied for, but has not received, certification and payment as an intermediate care facility for the mentally retarded if the person or government agency is making a good faith effort to bring the facility into compliance with requirements for certification and payment as an intermediate care facility for the mentally retarded. In assigning payment amounts to such contracts, the department shall take into account costs incurred in attempting to meet certification requirements.

(4) Reimburse an intermediate care facility for the mentally retarded for costs not otherwise reimbursed under ~~this chapter~~ Chapter 5111. of the

Revised Code for clothing for individuals who are mentally retarded or developmentally disabled. Reimbursement under such contracts shall not exceed a maximum amount per individual per year specified in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.

(C) The amount paid to a contractor under divisions (B)(1) to (3) of this section shall not exceed the reimbursement that would be made under ~~this chapter~~ Chapter 5111. of the Revised Code by the department of job and family services for the same goods and services.

(D) The department of mental retardation and developmental disabilities shall adopt rules as necessary to implement this section, including rules establishing standards and procedures for the submission of cost reports by contractors and the department's conduct of audits and reconciliations regarding the contracts. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5123.1910. (A) The director of mental retardation and developmental disabilities shall issue one or more residential facility licenses under section 5123.19 of the Revised Code to an applicant without requiring the applicant to have plans submitted, reviewed, or approved under section 5123.042 of the Revised Code for the residential facility if all of the following requirements are met:

(1) The applicant satisfies the requirements for the license established by section 5123.19 of the Revised Code and rules adopted under that section, other than any rule that requires an applicant for a residential facility license to have plans submitted, reviewed, or approved under section 5123.042 of the Revised Code for the residential facility.

(2) The applicant operates at least one residential facility licensed under section 5123.19 of the Revised Code on the effective date of this section.

(3) The applicant provides services to individuals with mental retardation or a developmental disability who have a chronic, medically complex, or technology-dependent condition that requires special supervision or care, the majority of whom received habilitation services from the applicant before attaining eighteen years of age.

(4) The applicant has created directly or through a corporate affiliate a research center that has the mission of funding, promoting, and carrying on scientific research in the public interest related to individuals with mental retardation or a developmental disability for the purpose of improving the lives of such individuals.

(5) If the applicant seeks two or more residential facility licenses, the residential facilities for which a license is sought after the effective date of

this section are located on the same or adjoining property sites.

(6) The residential facilities for which the applicant seeks licensure have not more than eight beds each and forty-eight beds total.

(7) The applicant, one or more of the applicant's corporate affiliates, or both employ or contract for, on a full-time basis, at least one licensed physician who is certified by the American board of pediatrics or would be eligible for certification from that board if the physician passed an examination necessary to obtain certification from that board.

(8) The applicant, one or more of the applicant's corporate affiliates, or both have educational facilities suitable for the instruction of individuals under eighteen years of age with mental retardation or a developmental disability who have a medically complex or technology-dependent condition.

(9) The applicant has a policy for giving individuals with mental retardation or a developmental disability who meet all of the following conditions priority over all others in admissions to one of the residential facilities licensed under section 5123.19 of the Revised Code that the applicant operates on the effective date of this section:

(a) Are under eighteen years of age;

(b) Have a chronic, medically complex, or technology-dependent condition that requires special supervision or care;

(c) Are eligible for medicaid;

(d) Reside in a nursing home, as defined in section 3721.01 of the Revised Code, or a hospital, as defined in section 3727.01, prior to being admitted to the residential facility.

(B) The director shall issue one or more residential facility licenses under section 5123.19 of the Revised Code to an applicant who meets all of the requirements of this section regardless of whether the requirements for approval of a plan for a proposed residential facility established by rules adopted under section 5123.042 of the Revised Code are met.

Sec. 5123.38. (A) Except as provided in division (B) and (C) of this section, if an individual receiving supported living or home and community-based services, as defined in section 5126.01 of the Revised Code, funded by a county board of mental retardation and developmental disabilities is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of mental retardation and developmental disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility.

(B) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving supported services, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

(C) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division

(L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.

(B) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service. If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the

person's case, such involvement shall cease.

(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.

The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.

(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.

(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.

(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.

All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.

(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(5) The administrator of the legal rights service shall ~~be appointed for a five-year term, subject to removal for mental or physical incapacity to~~

~~perform the duties of the office, conviction of violation of any law relating to the administrator's powers and duties, or other good cause shown~~ serve at the pleasure of the commission.

The administrator shall be a person who has had special training and experience in the type of work with which the legal rights service is charged. If the administrator is not an attorney, the administrator shall seek legal counsel when appropriate. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.

(E) The legal rights service shall be completely independent of the department of mental health and the department of mental retardation and developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall also be independent of the office of the attorney general. The administrator of the legal rights service, staff, and attorneys designated by the administrator to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to the following:

(1) During normal business hours and at other reasonable times, all records relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the legal rights service, including those who may be represented pursuant to division (L) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; community residential facilities; boards of alcohol, drug addiction, and mental health services; county boards of mental retardation and developmental disabilities; contract agencies of those boards; and any other entity providing services to persons who may be represented by the service pursuant to division (L) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the service pursuant to division (L) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

(F) The administrator of the legal rights service shall do the following:

(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;

(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;

(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;

(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service;. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.

(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;

(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of mental retardation and developmental disabilities, and make the report available to the public;

(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.

(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.

(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.

(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the

following have first occurred:

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;

(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.

(4) ~~Relationships~~ Subject to division (G)(5) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be confidential, as if between attorney and client.

(5) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties.

(I) The legal rights service may conduct public hearings.

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.

(L) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section, the legal rights service and its ombudsperson section may provide advocacy or ombudsperson services to those other individuals and exercise any other authority granted by this section or sections 5123.601 to 5123.604 of the Revised Code on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the legal rights service.

Sec. 5123.801. If neither a discharged resident, nor a resident granted trial visit, nor the persons requesting the resident's trial visit or discharge are financially able to bear the expense of the resident's trial visit or discharge, the managing officer of an institution under the control of the department of mental retardation and developmental disabilities may then provide actual traveling and escort expenses to the township of which the resident resided at the time of institutionalization. The amount payable shall be charged to the current expense fund of the institution.

The expense of the return of a resident on trial visit from an institution, if it cannot be paid by the responsible relatives, shall be borne by the county of institutionalization.

~~The managing officer of the institution shall take all proper measures for the apprehension of an escaped resident. The expense of the return of an escaped resident shall be borne by the institution where the resident is institutionalized.~~

The managing officer of the institution shall provide sufficient and proper clothing for traveling if neither the resident nor the persons requesting the resident's trial visit or discharge are financially able to provide that clothing.

Sec. 5123.851. When a resident institutionalized pursuant to this chapter is discharged from the institution, the managing officer of the institution may provide the resident with all personal items that were purchased in implementing the resident's habilitation plan established pursuant to section 5123.85 of the Revised Code. The personal items may be provided to the resident, regardless of the source of the funds that were used to purchase the items.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the

director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(D) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of

section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(E) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(F)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(H) "Habilitation" means the process by which the staff of the facility or

agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

(I) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

(J) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under a the medicaid component components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(L) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(M) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(P) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the

Revised Code.

(Q)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

(R) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

(S)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.042. (A) As used in this section:

~~(1) "Emergency",~~ "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:

~~(a)(1)~~ Loss of present residence for any reason, including legal action;

~~(b)(2)~~ Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)(3)~~ Abuse, neglect, or exploitation of the individual;

~~(d)(4)~~ Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)(5)~~ Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists

according to an individual's emergency status and shall establish priorities in accordance with ~~division~~ divisions (D) and (E) of this section.

The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status.

In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their intention to request in the future a service they are not currently receiving. The purpose of the registry is to enable the board to document requests and to plan appropriately. The board may not place an individual on the registry who meets the conditions for receipt of services on an emergency basis.

(C) A county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:

- (1) Early childhood services;
- (2) Educational programs for preschool and school age children;
- (3) Adult services;
- (4) Service and support administration;
- (5) Residential services and supported living;
- (6) Transportation services;
- (7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;
- (8) Family support services provided under section 5126.11 of the Revised Code.

(D) Except as provided in division ~~(F)~~(G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:

- (1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services,

and habilitation center services, do both of the following:

(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:

- (i) Is twenty-two years of age or older;
- (ii) Receives supported living or family support services.

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

- (i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;
- (ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed;

(ii) An emotional disorder for which anti-psychotic medication is needed;

(iii) A medical condition that leaves the individual dependent on life-support medical technology;

(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;

(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.

(c) Is twenty-two years of age or older, does not receive residential

services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis.

(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this section of the individuals identified by the department and the individuals' assessed needs.

(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community-based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community-based services, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria.

(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(1) or (2) or (E) of this section, a county board may use, until December 31, ~~2003~~ 2005, criteria specified in rules adopted under division ~~(J)~~(K)(2) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community-based services to such individuals in the order they are placed on the waiting list.

~~(F)~~(G)(1) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status.

(2) No more than four hundred individuals in the state may receive priority for services during the ~~2002~~ 2004 and ~~2003~~ 2005 biennium pursuant to division (D)(2)(b) of this section.

(3) No more than a total of seventy-five individuals in the state may receive priority for services during state fiscal years 2002 and 2003 pursuant to division (D)(3) of this section.

~~(G)~~(4) No more than forty individuals in the state may receive priority for services pursuant to division (E) of this section for each year that priority category is in effect as specified in rules adopted under division (K) of this section.

(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division ~~(J)~~(K) of this section.

Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.

At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.

When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.

~~(H)~~(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community-based

services provided through ~~the~~ a medicaid component that the department of mental retardation and developmental disabilities administers under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.

~~(H)~~(J) Not later than the fifteenth day of March of each even-numbered year, each county board shall prepare and submit to the director of mental retardation and developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.

~~(J)~~(K)(1) The department of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated.

(2) As part of the rules adopted under this division, the department shall adopt, ~~not later than December 31, 2001,~~ rules establishing criteria a county board may use under division ~~(E)~~(F) of this section in determining the order in which individuals with priority for home and community-based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services. The rules adopted under division ~~(J)~~(K)(2) of this section shall cease to have effect December 31, ~~2003~~ 2005.

~~(K)~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

(a) The number of years, which shall not exceed five, that the priority category will be in effect;

(b) The date that the priority category is to go into effect.

(L) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services,

programs, or supports.

Sec. 5126.058. (A) The director of job and family services shall seek federal financial participation for the administrative costs for the following that each county board of mental retardation and developmental disabilities incurs pursuant to its medicaid local administrative authority under section 5126.055 of the Revised Code and claims in accordance with rules adopted under this section:

- (1) Home and community-based services;
- (2) Habilitation center services;
- (3) Service and support administration provided in conjunction with any of the services listed in divisions (A)(1) and (2) of this section.

(B) The administrative costs for which the director shall seek federal financial participation under this section shall include all of the following:

- (1) Business management;
- (2) Contract management;
- (3) General administration;
- (4) Personnel management.

(C) Except as provided in division (D) of this section, federal financial participation obtained pursuant to a claim made under this section shall be paid to the county board that makes the claim.

(D) The department of mental retardation and development disabilities shall collect one per cent of the federal financial participation obtained pursuant to each claim made under this section. The amount the department collects under this division shall be deposited into the ODMR/DD administrative and oversight fund created under section 5123.0412 of the Revised Code.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the implementation of this section. The director shall adopt the rules in consultation with the director of mental retardation and developmental disabilities. The rules shall be consistent with federal regulations governing the medicaid program and shall comply with all of the following:

(1) A county board may not claim more than fifteen per cent of its administrative costs for home and community-based services and habilitation center services.

(2) A county board may not claim more than fifty per cent of its administrative costs for service and support administration provided in conjunction with any of the services listed in division (A)(1) or (2) of this section.

(3) A county board shall verify the administrative costs for which it

seeks federal financial participation in accordance with a time study or actual billing provided for by the rules.

(4) A county board may make a claim for administrative costs incurred before, on, or after the effective date of this section.

Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

(B) Subject to rules adopted by the director of mental retardation and developmental disabilities, and subject to the availability of money from state and federal sources, the county board of mental retardation and developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of mental retardation and developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the

family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:

(1) A payment schedule adjusted for income;

(2) A formula for distributing to county boards the money appropriated for family support services;

(3) Standards for supervision, training, and quality control in the provision of respite care services;

(4) Eligibility standards and procedures for providing temporary emergency respite care;

(5) Procedures for hearing and deciding appeals made under division (F) of this section;

(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.

Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

(K) ~~On the first day of July of each year, the~~ The department of mental retardation and developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.

(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.

Sec. 5126.12. (A) As used in this section:

(1) "Approved school age class" means a class operated by a county board of mental retardation and developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.

(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved by ~~the state board of education~~ under division (B) of section 3317.05 of the Revised Code.

(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.

(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 49 ~~79~~ Stat. ~~620~~ 286 (1935 1965), 42 U.S.C. ~~304~~ 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in a home and community-based services ~~waiver program administered by the department of mental retardation and developmental disabilities as part of the medical assistance program established under section 5111.01 of the Revised Code.~~

(5) "Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.

(6) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.

(B) Each county board of mental retardation and developmental disabilities shall certify to the director of mental retardation and developmental disabilities all of the following:

(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:

(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the

thirtieth day of September of the academic year;

(b) Special education for handicapped children in approved school age classes;

(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:

(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;

(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;

(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;

(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.

(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of mental retardation and developmental disabilities.

The membership in each such program and service in the county shall be reported on forms prescribed by the department of mental retardation and developmental disabilities.

The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.

(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;

(3) On or before the thirtieth day of March, an itemized report of all income and operating expenditures for the immediately preceding calendar

year, in the format specified by the department of mental retardation and developmental disabilities;

(4) By the fifteenth day of February, a report of the total annual cost per enrollee for operation of programs and services in the preceding calendar year. The report shall include a grand total of all programs operated, the cost of the individual programs, and the sources of funds applied to each program.

(5) That each required certification and report is in accordance with rules established by the department of mental retardation and developmental disabilities and the state board of education for the operation and subsidization of the programs and services.

(C) To compute payments under this section to the board for the fiscal year, the department of mental retardation and developmental disabilities shall use the certification of average daily membership required by division (B)(1) of this section exclusive of the average daily membership in any approved school age class and the number in any approved preschool unit.

(D) The department shall pay each county board for each fiscal year an amount equal to nine hundred fifty dollars times the certified number of persons who on the first day of December of the academic year are under three years of age and are not in an approved preschool unit. For persons who are at least age sixteen and are not in an approved school age class, the department shall pay each county board for each fiscal year the following amounts:

(1) One thousand dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;

(2) One thousand two hundred dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;

(3) No less than one thousand five hundred dollars times the certified average daily membership of persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;

(4) No less than one thousand five hundred dollars times the certified average daily membership of persons participating in community employment services.

(E) The department shall distribute this subsidy to county boards in ~~semiannual~~ quarterly installments of equal amounts. The installments shall

be made not later than the thirtieth day of September, the thirty-first day of August and December, the thirty-first day of January March, and the thirtieth day of June.

(F) The director of mental retardation and developmental disabilities shall make efforts to obtain increases in the subsidies for early childhood services and adult services so that the amount of the subsidies is equal to at least fifty per cent of the statewide average cost of those services minus any applicable federal reimbursements for those services. The director shall advise the director of budget and management of the need for any such increases when submitting the biennial appropriations request for the department.

(G) In determining the reimbursement of a county board for the provision of service and support administration, family support services, and other services required or approved by the director for which children three through twenty-one years of age are eligible, the department shall include the average daily membership in approved school age or preschool units. The department, in accordance with this section and upon receipt and approval of the certification required by this section and any other information it requires to enable it to determine a board's payments, shall pay the agency providing the specialized training the amounts payable under this section.

Sec. 5126.121. Each county board of mental retardation and developmental disabilities may be eligible to receive a subsidy from the department of mental retardation and developmental disabilities for the employment of a business manager as provided in this section. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying standards for the employment of such a business manager. The rules shall include the minimum education and experience requirements for the position of business manager and shall specify requirements for courses in fiscal and business management that are annually sponsored or certified by the department and that are applicable to the position and designed to teach effective business practices. Each county board of mental retardation and developmental disabilities that employs a business manager in accordance with the standards adopted under this section may receive a subsidy from the department.

The department shall distribute this subsidy to eligible county boards in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June.

Sec. 5126.15. (A) A county board of mental retardation and

developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be employed by or serve in a decision-making or policy-making capacity for any other entity that provides programs or services to individuals with mental retardation or developmental disabilities. An individual employed as a conditional status service and support administrator shall perform the duties of service and support administration only under the supervision of a management employee who is a service and support administration supervisor or a professional employee who is a service and support administrator.

(B) The individuals employed by or under contract with a board to provide service and support administration shall do all of the following:

- (1) Establish an individual's eligibility for the services of the county board of mental retardation and developmental disabilities;
- (2) Assess individual needs for services;
- (3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of mental retardation and developmental disabilities when services included in the plans are funded through Medicaid;

(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;

(5) Assist individuals in making selections from among the providers they have chosen;

(6) Ensure that services are effectively coordinated and provided by appropriate providers;

(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;

(8) Perform quality assurance reviews as a distinct function of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;

(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.

(C) Subject to available funds, the department of mental retardation and developmental disabilities shall pay a county board an annual subsidy for service and support administration. The amount of the subsidy shall be equal to the greater of twenty thousand dollars or two hundred dollars times the board's certified average daily membership. The payments shall be made in ~~semiannual~~ quarterly installments of equal amounts, which shall be made no later than the thirtieth day of September, the thirty-first day of August and December, the thirty-first day of January March, and the thirtieth day of June. Funds received shall be used solely for service and support administration.

Sec. 5126.18. (A) As used in this section:

(1) "County board" means a county board of mental retardation and developmental disabilities.

(2) Notwithstanding section 5126.01 of the Revised Code, "adult

services" means the following services, as they are identified on individual information forms submitted by county boards to the department of mental retardation and developmental disabilities for the purpose of subsidies paid to county boards under section 5126.12 of the Revised Code, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:

- (a) Assessment;
- (b) Home service;
- (c) Adult program;
- (d) Community employment services;
- (e) Retirement.

(3) "Adult services enrollment" means a county board's average daily membership in adult services, exclusive of such services provided to individuals served solely through service and support administration provided pursuant to section 5126.15 of the Revised Code or family support services provided pursuant to section 5126.11 of the Revised Code.

(4) "Taxable value" means the taxable value of a county board certified under division (B)(1) of this section.

(5) "Per-mill yield" of a county board means the quotient obtained by dividing (a) the taxable value of the county board by (b) one thousand.

(6) "Local adult services cost" means a county board's expenditures for adult services, excluding all federal and state reimbursements and subsidy allocations received by such boards and expended for such services, as certified under section 5126.12 of the Revised Code.

(7) "Statewide average millage" means one thousand multiplied by the quotient obtained by dividing (a) the total of the local adult services costs of all county boards by (b) the total of the taxable values of all county boards.

(8) "County yield" of a county board means the product obtained by multiplying (a) the statewide average millage by (b) the per-mill yield of the county board.

(9) "County yield per enrollee" of a county board means the quotient obtained by dividing (a) the county yield of the county board by (b) the adult enrollment of the county board.

(10) "Statewide yield per enrollee" means the quotient obtained by dividing (a) the sum of the county yields of all county boards by (b) the sum of the adult enrollments of all county boards.

(11) "Local tax effort for adult services" of a county board means one thousand multiplied by the quotient obtained by dividing (a) the local adult services cost of the county board by (b) the taxable value of the county board.

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year.

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year.

(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide to the department of mental retardation and developmental disabilities information specifying the taxable value of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of this section.

(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost.

(C) Each year, the department of mental retardation and developmental disabilities shall compute the following:

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee;

(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board;

(3) The sum of the amounts computed under division (C)(2) of this section for all county boards.

(D) From money appropriated for the purpose, the department, ~~on or before the thirtieth day of September of each year,~~ shall provide for payment to each county board of the amount computed for that county board under division (C)(2) of this section, subject to any reduction or adjustment under division (E), (F), or (G) of this section. The department shall make the payments in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, thirty-first day of December, thirty-first day of March, and thirtieth day of June.

(E) If a county board's local tax effort for adult services is less than the funding-adjusted required millage, the director shall reduce the amount of payment otherwise computed under division (C)(2) of this section so that the amount paid, after the reduction, is the same percentage of the amount computed under division (C)(2) of this section as the county board's local tax effort for adult services is of the funding-adjusted required millage.

If the director reduces the amount of a county board's payment under

this division, the department, not later than the fifteenth day of July, shall notify the county board of the reduction and the amount of the reduction. The notice shall include a statement that the county board may request to be exempted from the reduction by filing a request with the director, in the manner and form prescribed by the director, within twenty-one days after such notification is issued. The board may present evidence of its attempt to obtain passage of levies or any other extenuating circumstances the board considers relevant. If the county board requests a hearing before the director to present such evidence, the director shall conduct a hearing on the request unless the director exempts the board from the reduction on the basis of the evidence presented in the request filed by the board. Upon receiving a properly and timely filed request for exemption, but not later than the thirty-first day of August, the director shall determine whether the county board shall be exempted from all or a part of the reduction. The director may exempt the board from all or part of the reduction if the director finds that the board has made good faith efforts to obtain passage of tax levies or that there are extenuating circumstances.

(F) If a payment is reduced under division (E) of this section and the director does not exempt the county board from the reduction, the amount of the reduction shall be apportioned among all county boards entitled to payments under this section for which payments were not so reduced. The amount apportioned to each county board shall be proportionate to the amount of the board's payment as computed under division (C)(2) of this section.

(G) If, for any fiscal year, the amount appropriated to the department for the purpose of this section is less than the amount computed under division (C)(3) of this section for the fiscal year, the department shall adjust the amount of each payment as computed under divisions (C)(2), (E), and (F) of this section by multiplying that amount by the funding percentage.

(H) The payments authorized by this section are supplemental to all other funds that may be received by a county board. A county board shall use the payments solely to pay the nonfederal share of medicaid expenditures that division (A) of section 5126.057 of the Revised Code requires the county board to pay.

Sec. 5126.44. (A) The department of mental retardation and developmental disabilities, in accordance with Chapter 119. of the Revised Code, shall adopt rules for making allocations for counties and distributing to county boards of mental retardation and developmental disabilities money to be used for planning, development, contracting for, and providing supported living. The rules shall provide for an allocation to be made for

each county on an equitable basis, taking into account any factors that indicate need for supported living for residents of the county.

(B) The department shall annually allocate for each county an amount determined in accordance with the rules adopted under this section. Except as provided in division (C) of this section, the department shall distribute the amount allocated for the county to each county board. Money shall be distributed to county boards in ~~two quarterly~~ installments ~~annually~~, which shall be paid no later than the ~~last day of July and the last day of December~~ thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. In the case of a county that has not adopted a resolution under division (B) of section 5126.40 of the Revised Code, the department shall use the money allocated for the county to provide supported living under section 5123.182 of the Revised Code.

(C) The department shall not distribute money to a county board for residential services that are being provided by a provider under contract with the department on the effective date of this amendment unless the provider and the county board agree to enter into a contract between the provider and the county board under which the provider will provide the services as supported living. If the conversion of a contract occurs under this division, the provisions of section 5126.451 shall apply as though the contract was transferred under that section.

(D) Pursuant to section 5126.05 of the Revised Code, the county board shall annually adopt a separate budget for money distributed to it under this section. The board shall cause the money to be deposited in a fund created pursuant to division (F) of section 5705.09 of the Revised Code which shall be known as the "community mental retardation and developmental disabilities residential services and supported living fund." The fund shall consist of this money and any other money for residential services or supported living that the board causes to be deposited in the fund. A county board is not required to use any other money for residential services or supported living. A county board may establish a reserve balance account within this fund pursuant to division (C)(2) of section 5705.28 of the Revised Code.

(E) The department of mental retardation and developmental disabilities may adopt rules under Chapter 119. of the Revised Code establishing procedures for an annual reconciliation of state funds that have been deposited in the reserve balance account. The rules may provide for the return of state funds to the appropriate department account when the funds have been unexpended for a period of two years.

(F) A county board may use up to ten per cent of the amount distributed

to it under this section for the administrative costs of developing, arranging, and contracting for supported living and for costs of staff training and support. Annually, each county board shall report to the department all revenue and expenditures pertaining to supported living. The report shall be made in conjunction with the annual report of expenditures submitted pursuant to section 5126.12 of the Revised Code. The report shall list the names of the individuals served, the total number of individuals served on a monthly basis in the preceding calendar year, the types of services provided, the total cost of the services, and the sources of revenue used to cover the cost.

Sec. 5139.01. (A) As used in this chapter:

(1) "Commitment" means the transfer of the physical custody of a child or youth from the court to the department of youth services.

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.

(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.

(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.

(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.

(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or until the legal custody is terminated as otherwise provided by law.

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least ~~twelve~~ ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony;

(c) Children who satisfy all of the following:

(i) They are at least ~~twelve~~ ten years of age but less than eighteen years of age.

(ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony.

(iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years.

(iv) They are in the care and custody of an institution or a community corrections facility.

(d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution, ~~commit in that institution an act that if committed by an adult would be a felony~~, who are serving disciplinary time for having committed ~~that~~ an act described in division (A)(19)(a), (b), or (c) of this section, and who have been institutionalized or institutionalized in a secure facility for the minimum period of time specified in divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code.

(e) Felony delinquents who are subject to and serving a three-year period of commitment order imposed by a juvenile court pursuant to divisions (A) and (B) of section 2152.17 of the Revised Code for an act, other than a violation of section 2911.11 of the Revised Code, that would be a category one offense or category two offense if committed by an adult.

(f) Felony delinquents who are described in divisions (A)(13)(a) to (e) of this section, who have been granted a judicial release to court supervision under division (B) of section 2152.22 of the Revised Code or a judicial release to the department of youth services supervision under division (C) of that section from the commitment to the department of youth services for the act described in divisions (A)(13)(a) to (e) of this section, who have violated the terms and conditions of that release, and who, pursuant to an order of the court of the county in which the particular felony delinquent was placed on release that is issued pursuant to division (D) of section 2152.22 of the Revised Code, have been returned to the department for institutionalization or institutionalization in a secure facility.

(g) Felony delinquents who have been committed to the custody of the department of youth services, who have been granted supervised release from the commitment pursuant to section 5139.51 of the Revised Code, who have violated the terms and conditions of that supervised release, and who, pursuant to an order of the court of the county in which the particular child was placed on supervised release issued pursuant to division (F) of section 5139.52 of the Revised Code, have had the supervised release revoked and have been returned to the department for institutionalization. A felony delinquent described in this division shall be a public safety bed only for the time during which the felony delinquent is institutionalized as a result of the revocation subsequent to the initial thirty-day period of institutionalization required by division (F) of section 5139.52 of the Revised Code.

(14) ~~"State target youth" means twenty five per cent of the projected total number of felony delinquents for each year of a biennium, factoring in~~

~~revocations and recommitments.~~

(15) Unless the context requires a different meaning, "community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

~~(16)~~(15) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

~~(17)~~(16) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

~~(18)~~(17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

~~(19)~~(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the ~~person's or~~ felony delinquent's planned release, and that the department imposes upon the ~~person or~~ felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a misdemeanor;

(c) An act that is not described in division (A)~~(19)~~(18)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

~~(20)~~(19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

~~(21)~~(20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code.

~~(22)~~(21) "Release authority" means the release authority of the department of youth services that is established by section 5139.50 of the Revised Code.

~~(23)~~(22) "Supervised release" means the event of the release of a child under this chapter from an institution and the period after that release during which the child is supervised and assisted by an employee of the department of youth services under specific terms and conditions for reintegration of the child into the community.

~~(24)~~(23) "Victim" means the person identified in a police report, complaint, or information as the victim of an act that would have been a criminal offense if committed by an adult and that provided the basis for adjudication proceedings resulting in a child's commitment to the legal custody of the department of youth services.

~~(25)~~(24) "Victim's representative" means a member of the victim's family or another person whom the victim or another authorized person designates in writing, pursuant to section 5139.56 of the Revised Code, to represent the victim with respect to proceedings of the release authority of the department of youth services and with respect to other matters specified in that section.

~~(26)~~(25) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, other relative, or legal guardian of a child but does not include a person charged with, convicted of, or adjudicated a delinquent child for committing a criminal or delinquent act against the victim or another criminal or delinquent act arising out of the same conduct, criminal or delinquent episode, or plan as the criminal or delinquent act committed against the victim.

~~(27)~~(26) "Judicial release to court supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (B) of section 2152.22 of the Revised Code during the period specified in that division.

~~(28)~~(27) "Judicial release to department of youth services supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (C) of section 2152.22 of the Revised Code during the period specified in that division.

~~(29)~~(28) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

~~(30)~~(29) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 181.54 of the Revised Code.

~~(31)~~(30) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 181.56 of the Revised Code.

~~(32)~~(31) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 181.56 of the Revised Code.

~~(33)~~(32) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, all of the functions of the juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions include, but are not limited to, all of the following:

- (a) Delinquency;
- (b) Identification, detection, apprehension, and detention of persons charged with delinquent acts;
- (c) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;
- (d) Adjudication or diversion of persons charged with delinquent acts;
- (e) Custodial treatment of delinquent children;
- (f) Institutional and noninstitutional rehabilitation of delinquent children.

(B) There is hereby created the department of youth services. The governor shall appoint the director of the department with the advice and consent of the senate. The director shall hold office during the term of the appointing governor but subject to removal at the pleasure of the governor. Except as otherwise authorized in section 108.05 of the Revised Code, the director shall devote the director's entire time to the duties of the director's office and shall hold no other office or position of trust or profit during the director's term of office.

The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or

action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

~~(D) Train or provide for training of probation and youth correction workers;~~

(E) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;

~~(F)~~(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year; ~~(G)~~(F)

Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

~~(H) Receive reports from the juvenile courts under division (C)(3)(b) of section 5139.43 of the Revised Code and prepare an annual report of state juvenile court statistics and information based upon those reports. The department shall make available a copy of the annual report to the governor and members of the general assembly upon request.~~

~~(I)~~(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;

~~(J)~~(H) Do all other acts necessary or desirable to carry out this chapter.

Sec. 5139.33. (A) The department of youth services shall make grants in accordance with this section to encourage counties to use community-based programs and services for juveniles who are adjudicated delinquent children for the commission of acts that would be felonies if committed by an adult.

(B) Each county seeking a grant under this section shall file an application with the department of youth services. The application shall be filed at the time and in accordance with procedures established by the department in rules adopted under this section. Each application shall be accompanied by a plan designed to reduce the county's commitment percentage, or to enable it to maintain or attain a commitment percentage that is equal to or below the statewide average commitment percentage. A county's commitment percentage is the percentage determined by dividing the number of juveniles the county committed to the department during the year by the number of juveniles who were eligible to be committed. The statewide average commitment percentage is the percentage determined by dividing the number of juveniles in the state committed to the department during the year by the number of juveniles who were eligible to be committed. These percentages shall be determined by the department using the most reliable data available to it.

Each plan shall include a method of ensuring equal access for minority youth to the programs and services for which the grant will be used.

The department shall review each application and plan to ensure that the requirements of this division are satisfied. Any county applying for a grant under this section that received a grant under this section during the preceding year and that failed to meet its commitment goals for that year shall make the changes in its plan that the department requires in order to continue to be eligible for grants under this section.

(C) Subject to division (E) of this section, the amounts appropriated for the purpose of making grants under this section shall be distributed annually on a per capita basis among the counties that have complied with division (B) of this section.

(D) The department shall adopt rules to implement this section. The rules shall include, but are not limited to, procedures and schedules for submitting applications and plans under this section, including procedures allowing joint-county applications and plans; and procedures for monitoring and evaluating the effectiveness of the programs and services financed with grant money, the enhancement of the use of local facilities and services, and the adequacy of the supervision and treatment provided to juveniles by those programs and services.

(E)(1) Three months prior to the implementation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, each county that is entitled to a grant under this section shall receive its grant money for the fiscal year or the remainder of its grant money for the fiscal year, other than any grant money to which it is entitled

and that is set aside by the department of youth services for purposes of division (E)(2) of this section. The grant money so distributed shall be paid in a lump sum.

(2) During the first twelve months that the felony delinquent care and custody program described in section 5139.43 of the Revised Code is implemented in a county, any grant or the remainder of any grant to which a county is entitled and that is payable from the appropriation made to the department of youth services for community sanctions shall be distributed as follows:

(a) In the first quarter of the twelve-month period, the county shall receive one hundred per cent of the quarterly distribution.

(b) In the second quarter of the twelve-month period, the county shall receive seventy-five per cent of the quarterly distribution.

(c) In the third quarter of the twelve-month period, the county shall receive fifty per cent of the quarterly distribution.

(d) In the fourth quarter of the twelve-month period, the county shall receive twenty-five per cent of the quarterly distribution.

(3) Grant moneys received pursuant to divisions (E)(1) and (2) of this section shall be transmitted by the juvenile court of the recipient county to the county treasurer, shall be deposited by the county treasurer into the felony delinquent care and custody fund created pursuant to division ~~(E)~~(B)(1) of section 5139.43 of the Revised Code, and shall be used by the juvenile court in accordance with division ~~(E)~~(B)(2) of that section. The grant moneys shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(4) One year after the commencement of its operation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, the department shall not make any further grants under this section.

Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions ~~(E)~~(B)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code. The department shall not grant financial assistance pursuant to this section for

the provision of care and services for children in a ~~foster-care~~ placement facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of job and family services, department of education, department of mental health, ~~or~~ department of mental retardation and developmental disabilities, or American Correctional Association. For the purposes of this section, ~~foster-care~~ placement facilities do not include a state institution or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code have been satisfied.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has a population of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C)(1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division ~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and section 5139.43 of the Revised Code. In addition to the subject matters described in division ~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code or in the rules that the department adopts to implement that division, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent care and custody fund created pursuant to division ~~(C)~~(B)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which ~~each county is entitled as follows:~~

(a) ~~Except as provided in division (C)(2)(b) of this section, the department shall disburse the state subsidy funds to which a county is entitled in a lump sum payment that shall be made in July of each calendar year.~~

(b) ~~In the case of state subsidy funds to which a county is entitled for fiscal year 1998, the department shall disburse the state subsidy funds to the county in two distinct payments in accordance with this division. The department shall disburse seventy-five per cent of those state subsidy funds to the county in July 1997. After the department reviews and reconciles the applicable reports that the juvenile court of the county is required to prepare and submit to the department pursuant to section 5139.43 of the Revised Code, the department shall disburse to the county in October 1997, the remainder of the state subsidy funds to which the county is entitled.~~

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section are subject to appropriation by the board of county commissioners of the county; shall be disbursed by the county treasurer as required by division (C)(3) of this section; shall be used in the manners referred to in division (C)(3) of this section; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who are at risk of becoming delinquent children,

unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions ~~(C)~~(B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents to the programs and services for which a potential grant would be used.

(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it.

(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements:

(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility;

(2) Have written standardized criteria governing the types of felony

delinquents that are eligible for the programs and services provided by the facility;

(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks:

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department;

(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the method of distribution of the funds appropriated for grants under this section to community corrections facilities.

~~(E) With the consent of a committing court and of a community corrections facility that has received a grant under this section, the department of youth services may place in that facility a felony delinquent who has been committed to the department. During the period in which the felony delinquent is in that facility, the felony delinquent~~ (1) The department of youth services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the minimum occupancy threshold of community corrections facilities.

(2) The department may make referrals for the placement of children in its custody to a community corrections facility if the community corrections facility is not meeting the minimum occupancy threshold established by the department. At least forty-five days prior to the referral of a child, the department shall notify the committing court of its intent to place the child in a community corrections facility. The court shall have thirty days after the receipt of the notice to approve or disapprove the placement. If the court does not respond to the notice of the placement within that thirty-day period, the department shall proceed with the placement and debit the county in accordance with sections 5139.41 to 5139.43 of the Revised Code. A child placed in a community corrections facility pursuant to this division shall remain in the legal custody of the department of youth services during the period in which the child is in the community corrections facility.

(3) Counties that are not associated with a community corrections facility may refer children to a community corrections facility with the consent of the facility. The department of youth services shall debit the

county that makes the referral in accordance with sections 5139.41 to 5139.43 of the Revised Code.

(F) If the board or other governing body of a community corrections facility establishes an advisory board, the board or other governing authority of the community corrections facility shall reimburse the members of the advisory board for their actual and necessary expenses incurred in the performance of their official duties on the advisory board. The members of advisory boards shall serve without compensation.

Sec. 5139.41. ~~On and after January 1, 1995, the~~ The appropriation made to the department of youth services for care and custody of felony delinquents shall be expended in accordance with ~~a formula~~ the following procedure that the department shall ~~develop~~ use for each year of a biennium. The ~~formula~~ procedure shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code and shall be developed in accordance with the following guidelines:

(A) ~~The department shall set aside at least three per cent but not more than five per cent of the appropriation for purposes of funding the contingency program described in section 5139.45 of the Revised Code and of use in accordance with that section.~~

(B)(1) After setting aside the amount described in division (A) of this section, the department shall set aside twenty-five per cent of the remainder of the appropriation and use that amount for the purpose described in division (B)(2) of this section and to pay certain of the operational costs ~~associated with, and to provide cash flow for, the following:~~

(a) ~~Institutions;~~

(b) ~~The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under section 5139.08 of the Revised Code;~~

(c) ~~Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions.~~

(2) The department may use a portion of the twenty-five per cent of the remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency ~~program described in section 5139.45 of the Revised Code.~~

(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the

appropriation that is equal to twenty-five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible ~~under sections 5139.41 to 5139.45 of the Revised Code.~~

~~(D) After setting aside the amounts described in divisions (A) to (C) of this section, the department shall set aside the amount of the appropriation that is necessary to pay seventy-five per cent of the per diem cost of public safety beds and shall use that amount for the purpose of paying that per diem cost.~~

~~(E) After setting aside the amounts described in divisions (A) to (D) of this section, the department shall use the remainder of the appropriation in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code, except that, for fiscal year 2002 and fiscal year 2003 and only for those two fiscal years, the total number of beds available to all counties via public safety beds and county allocations shall not be less than the total beds used by all the counties during fiscal year 2000 funded by care and custody chargebacks (Line Item 401) and as public safety beds.~~

~~(F) If the department's appropriation for a fiscal year is subsequently revised by law or its expenditures ordered to be reduced by executive order under section 126.05 of the Revised Code, the department may adjust the amounts described in divisions (A) to (E) of this section in a manner consistent with the revision or reduction. The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:~~

~~(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;~~

~~(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;~~

~~(3) County juvenile courts that administer programs and services for~~

prevention, early intervention, diversion, treatment, and rehabilitation services and programs that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children;

(4) Administrative expenses the department incurs in connection with the felony delinquent care and custody programs described in section 5139.43 of the Revised Code.

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action.

(C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's four year average of felony adjudications, divided by statewide ratios of commitments to felony adjudications, as specified in the following formula:

(1) The department shall give to each county a proportional allocation of commitment credits. The proportional allocation of commitment credits shall be calculated by the following procedures:

(a) The department shall determine for each county and for the state a four year average of felony adjudications.

(b) The department shall determine for each county and for the state the number of charged bed days, for both the department and community correctional facilities, from the previous year.

(c) The department shall divide the statewide total number of charged bed days by the statewide total number of felony adjudications, which quotient shall then be multiplied by a factor determined by the department.

(d) The department shall calculate the county's allocation of credits by multiplying the number of adjudications for each court by the result determined pursuant to division (C)(1)(c) of this section.

(2) The department shall subtract from the allocation determined pursuant to division (C)(1) of this section a credit for every chargeable bed day a youth stays in a department institution and two-thirds of credit for every chargeable bed day a youth stays in a community correctional facility. At the end of the year, the department shall divide the amount of remaining credits of that county's allocation by the total number of remaining credits to all counties, to determine the county's percentage, which shall then be applied to the total county allocation to determine the county's payment for the fiscal year.

(3) The department shall pay counties three times during the fiscal year to allow for credit reporting and audit adjustments, and modifications to the appropriated line item for the care and custody of felony delinquents, as described in this section. The department shall pay fifty per cent of the payment by the fifteenth of July of each fiscal year, twenty-five per cent by the fifteenth of January of that fiscal year, and twenty-five per cent of the payment by the fifteenth of June of that fiscal year.

(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:

(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.

(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's total payment.

(3) The department shall make payments in accordance with the schedule established in division (C)(3) of this section.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program ~~with the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The program that shall be operated in accordance with the formula developed pursuant to sections section 5139.41 and 5139.42 of the Revised Code, subject to the conditions specified in this section, and in conjunction with the contingency program described in section 5139.45 of the Revised Code.~~

~~(B)(1) The department of youth services annually shall allocate to each county a portion of the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The portion to be allocated to each county shall be determined by multiplying the county's percentage determined under division (E) of section 5139.42 of the Revised Code by the amount of that remainder. The department shall divide the portion to be~~

allocated to each county by twelve or, if in a particular fiscal year the felony delinquent care and custody program is in effect in a county less than twelve months, by the number of months the program is in effect in that county to ~~determine the monthly allocation to that county.~~

(2)(a) Except as provided in divisions (B)(2)(b) and (E) of this section, the department shall reduce the monthly allocation for each fiscal year to each county as determined under division (B)(1) of this section by both of ~~the following:~~

(i) Seventy-five per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in divisions (B)(2)(a) and (3) of this section, who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release by the juvenile court ~~of that county;~~

(ii) Fifty per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in division (B)(3) of this section, who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court of that ~~county as described in division (E) of section 5139.36 of the Revised Code.~~

Public safety beds shall not be included in the number of felony delinquents who have been adjudicated delinquent children by a juvenile court in making the seventy-five per cent reduction described in division (B)(2)(a)(i) of this section. The department shall bear the care and custody ~~costs associated with public safety beds.~~

(b) If a county has exhausted its current and future monthly allocations for the current fiscal year as determined under division (B)(1) of this section, the department shall bear the remainder of the amounts calculated under divisions (B)(2)(a)(i) and (ii) of this section for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release or in the care and custody of a community corrections facility by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of ~~section 5139.41 of the Revised Code.~~

(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section and subject to the special provisions of division (B)(3)(b) of this section pertaining to monthly allocations under divisions (B)(1) and (2)(a) of this section for the month of June, after the application of division (B)(2)(a) of this section and on or before the fifteenth day of the following month, the department shall disburse to the juvenile court of each county the remainder of the monthly allocation of that county as determined pursuant to ~~divisions (B)(1) and (2)(a) of this section.~~

(b)(i) For the monthly allocation for the month of June of each fiscal year, the department shall estimate for each county the number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than use the actual number of those felony delinquents, shall use the estimated number of those felony delinquents in making the seventy-five per cent and fifty per cent reductions described in those divisions, and shall encumber the remainder of the estimated monthly allocation of each county for the month of June, as determined pursuant to divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for disbursement in the month of July of the next fiscal year in accordance with division (B)(3)(b)(ii) of this section. If the total of the seventy-five per cent and fifty per cent reductions described in division (B)(2)(a) of this section exceeds the estimated monthly allocation of a county for the month of June as so determined, the department may cover the amount of the excess by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of ~~the Revised Code.~~

(ii) In the month of July of each new fiscal year, the department shall reconcile for each county the estimated reductions that occurred pursuant to divisions (B)(2)(a) and (3)(b)(i) of this section and the reductions that should have occurred pursuant to division (B)(2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section for the month of June of the prior fiscal year. After that reconciliation occurs, subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, the department shall disburse to each county the remainder of its monthly allocation for the month of June of the prior fiscal year as adjusted pursuant to the reconciliation and division ~~(B)(3)(b)(ii) of this section.~~

In connection with the adjustments in the monthly allocations for the month of June of the prior fiscal year, if the encumbered monthly allocations of one or more counties for that month exceed or are less than the monthly

allocations for that month to which those counties are entitled under divisions (B)(1) and (2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than the estimated number of those felony delinquents, the department may make the necessary adjustments in the monthly allocations of those counties for the month of June of the prior fiscal year within the total of the moneys for monthly allocations for that month that were encumbered for all of the counties. If that total amount is insufficient to make the requisite monthly allocations for that month to all counties in accordance with divisions (B)(1) and (2)(a) of this section, the department shall cover the insufficiency by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program ~~pursuant to division (A) of section 5139.41 of the Revised Code.~~

~~(4) Notwithstanding the general disbursement requirements of division (B)(3)(a) and (b)(ii) of this section, if a juvenile court fails to comply with division (C)(3)(d) of this section and the department is not able to reconcile fiscal accounting as a consequence of that failure, the department is not required to make any disbursement in accordance with division (B)(3)(a) or (b)(ii) of this section to the juvenile court until it complies with division (C)(3)(d) of this section.~~

~~(C)(4)~~ Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code in accordance with the applicable provisions of division ~~(C)(B)~~ (2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division ~~(C)(B)~~ (2) of this

section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The moneys disbursed to the juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this section, a delinquent child includes a child who is so adjudicated for the commission of an act that if committed by an adult would be a misdemeanor or felony.~~

~~If, during the previous state fiscal year, the county did not exceed in any month its monthly allocation as determined pursuant to division (B)(1) of this section in connection with felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section, the moneys in the fund that were~~

~~disbursed to the juvenile court pursuant to division (B) of this section and deposited pursuant to division (C)(1) of this section in the~~ The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division ~~(C)(B)~~(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) The county and the juvenile court that serves the county may not use moneys in the fund for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards that apply to the care and services and that the department prescribes in rules adopted pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code have been satisfied.

(b) Each juvenile court shall comply with division ~~(C)(B)~~(3)(d) of this section as implemented by the department. ~~If a juvenile court fails to comply with that division and the department is not able to reconcile fiscal accounting as a consequence of the failure, the provisions of division (B)(4) of this section shall apply.~~

(3) In accordance with rules adopted by the department pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division ~~(C)(B)~~(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application

for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division ~~(C)(B)~~(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division ~~(C)(B)~~(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year ~~that will permit the department to prepare the report described in division (D) of this section and the annual report described in division (H) of section 5139.04 of the Revised Code.~~ If the juvenile court fails to file the report required by division ~~(C)(B)~~(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of 5139.41 of the Revised Code~~ the applicable monthly allocation of the county until the juvenile court fully complies with division ~~(C)(B)~~(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports ~~for use under section 5139.42 of the Revised Code~~ and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of 5139.41 of the Revised Code~~ the applicable monthly allocation of the county until the juvenile court fully complies with division ~~(C)(B)~~(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of~~

5139.41 of the Revised Code the applicable ~~monthly~~ allocation ~~of the county~~, and the state subsidy funds and the remainder of the applicable ~~monthly~~ allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division ~~(C)~~(B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division ~~(C)~~(B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision. If the county fails to make the repayment within that thirty-day period and if the unauthorized expenditures pertain to moneys allocated under sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the department shall deduct the amount of the unauthorized expenditures from the next ~~monthly~~ allocation of those moneys to the county in accordance with this section or from the allocations that otherwise would be made under those sections to the county during the next state fiscal year in accordance with this section and shall return that deducted amount to the state's general revenue fund. If the county fails to

make the repayment within that thirty-day period and if the unauthorized expenditures pertain to moneys granted pursuant to section 5139.34 of the Revised Code, the department shall deduct the amount of the unauthorized expenditures from the next annual grant to the county pursuant to that section and shall return ~~than that~~ that deducted amount to the state's general revenue fund.

(D) On or prior to the first day of December of each year, the department of youth services shall submit to the joint legislative committee on juvenile corrections overcrowding a report that pertains to the operation of sections 5139.34 and 5139.41 to 5139.45 of the Revised Code during the immediately preceding state fiscal year and that includes, but is not limited to, ~~the following:~~

(1) A description of the programs, care, and services that were financed ~~under those sections in each county;~~

(2) The number of felony delinquents, other delinquent children, unruly children, and juvenile traffic offenders served by the programs, care, and ~~services in each county;~~

(3) The total number of children adjudicated in each juvenile court as ~~felony delinquents;~~

(4) The total number of felony delinquents who were committed by the juvenile court of each county to the department and who were in the care ~~and custody of an institution or a community corrections facility;~~

(5) A breakdown of the felony delinquents described in division (D)(4) of this section on the basis of the types and degrees of felonies committed, the ages of the felony delinquents at the time they committed the felonies, ~~and the sex and race of the felony delinquents.~~

~~(E)(C)~~ The determination of which county a reduction of the ~~monthly~~ care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the ~~monthly~~ care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the ~~monthly~~ allocation shall be charged against the county that recommitted the

youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5139.44. (A)(1) There is hereby created the RECLAIM advisory committee that shall be composed of the following nine members:

(a) Two members shall be juvenile court judges appointed by the Ohio association of juvenile and family court judges.

(b) One member shall be the director of youth services or the director's designee.

(c) One member shall be the director of budget and management or the director's designee.

(d) One member shall be a member of a senate committee dealing with finance or criminal justice issues appointed by the president of the senate.

(e) One member shall be a member of a committee of the house of representatives dealing with finance or criminal justice issues appointed by the speaker of the house of representatives.

(f) One member shall be a member of a board of county commissioners appointed by the county commissioners association of Ohio.

(g) Two members shall be juvenile court administrators appointed by the Ohio association of juvenile and family court judges.

(2) The members of the committee shall be appointed or designated within thirty days after the effective date of this section, and the director of youth services shall be notified of the names of the members.

(3) Members described in divisions (A)(1)(a), (f), and (g) of this section shall serve for terms of two years and shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members described in divisions (A)(1)(b) and (c) of this section shall serve as long as they hold the office described in that division. Members described in divisions (A)(1)(d) and (e) of this section shall serve for the duration of the session of the general assembly during which they were appointed, provided they continue to hold the office described in that division. The members described in divisions (A)(1)(a), (d), (e), (f), and (g) may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor

was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(4) Membership on the committee does not constitute the holding of an incompatible public office or employment in violation of any statutory or common law prohibition pertaining to the simultaneous holding of more than one public office or employment. Members of the committee are not disqualified from holding by reason of that membership and do not forfeit because of that membership their public office or employment that qualifies them for membership on the committee notwithstanding any contrary disqualification or forfeiture requirement under existing Revised Code sections.

(B) The director of youth services shall serve as an interim chair of the RECLAIM advisory committee until the first meeting of the committee. Upon receipt of the names of the members of the committee, the director shall schedule the initial meeting of the committee that shall take place at an appropriate location in Columbus and occur not later than sixty days after the effective date of this section. The director shall notify the members of the committee of the time, date, and place of the meeting. At the initial meeting, the committee shall organize itself by selecting from among its members a chair, vice-chair, and secretary. The committee shall meet at least once each quarter of the calendar year but may meet more frequently at the call of the chair.

(C) In addition to its functions with respect to the RECLAIM program described in section 5139.41 of the Revised Code, the RECLAIM advisory committee periodically shall do all of the following:

(1) Evaluate the operation of the RECLAIM program by the department of youth services, evaluate the implementation of the RECLAIM program by the counties, and evaluate the efficiency of the formula described in section 5139.41 of the Revised Code. In conducting these evaluations, the committee shall consider the public policy that RECLAIM funds are to be expended to provide the most appropriate programs and services for felony delinquents and other youthful offenders.

(2) Advise the department of youth services, the office of budget and management, and the general assembly on the following changes that the committee believes should be made:

(a) Changes to sections of the Revised Code that pertain to the RECLAIM program, specifically the formula specified in section 5139.41 of the Revised Code;

(b) Changes in the funding level for the RECLAIM program, specifically the amounts distributed under the formula for county allocations, community correctional facilities, and juvenile correctional facility budgets.

Sec. 5139.87. (A) The department of youth services shall serve as the state agent for the administration of all federal juvenile justice grants awarded to the state.

(B) There are hereby created in the state treasury the federal juvenile justice programs funds. A separate fund shall be established each federal fiscal year. All federal grants and other moneys received for federal juvenile programs shall be deposited into the funds. All receipts deposited into the funds shall be used for federal juvenile programs. All investment earnings on the cash balance in a federal juvenile program fund shall be credited to that fund for the appropriate federal fiscal year.

(C) All rules, orders, and determinations of the office of criminal justice services regarding the administration of federal juvenile justice grants that are in effect on the effective date of this amendment shall continue in effect as rules, orders, and determinations of the department of youth services.

Sec. 5153.122. (A) Each caseworker hired by a public children services agency shall complete at least ninety hours of in-service training during the first year of the caseworker's continuous employment, except that the director of the public children services agency may waive the training requirement for a school of social work graduate who participated in the university partnership program described in division (D) of section 5101.141 of the Revised Code. The training shall consist of courses in recognizing and preventing child abuse and neglect, assessing risks, interviewing persons, investigating cases, intervening, providing services to children and their families, and other topics relevant to child abuse and neglect. After the first year of continuous employment, each caseworker annually shall complete thirty-six hours of training in areas relevant to the caseworker's assigned duties.

(B) Each supervisor hired by a public children services agency shall complete at least sixty hours of in-service training during the first year of the supervisor's continuous employment in that position. After the first year of continuous employment as a supervisor, the supervisor annually shall complete thirty hours of training in areas relevant to the supervisor's assigned duties.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the training requirements of this section.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the department of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of mental health, department of mental retardation and developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation,

acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) Implement a system of risk assessment, in accordance with rules adopted by the director of job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with ~~the partnership~~ each fiscal agreement the board enters into under section

307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;
(iii) County boards of mental retardation and developmental disabilities;
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5153.163. (A) As used in this section, "adoptive parent" means, as the context requires, a prospective adoptive parent or an adoptive parent.

(B)(1) ~~If Before a child's adoption is finalized, a public children services agency considers a child with special needs residing in the county served by the agency to be in need of public care or protective services and all of the following apply, the agency shall enter into an agreement with the child's adoptive parent before the child is adopted under which the agency shall make state adoption maintenance subsidy payments as needed on behalf of the child when all of the following apply:~~

~~(a) The child is a child with special needs.~~

~~(b) The child was placed in the adoptive home by a public children services agency or a private child placing agency and may legally be adopted.~~

~~(c) The adoptive parent has the capability of providing the permanent family relationships needed by the child in all areas except financial need as determined by the agency.~~

~~(b)(d) The needs of the child are beyond the economic resources of the adoptive parent as determined by the agency.~~

~~(e) The agency determines the acceptance~~ (e) Acceptance of the child as a member of the adoptive parent's family would not be in the child's best interest without payments on the child's behalf under this section.

~~(2) Payments to an adoptive parent under division (B) of this section shall include medical, surgical, psychiatric, psychological, and counseling~~

~~expenses, and may include maintenance costs if necessary and other costs incidental to the care of the child. No payment of maintenance costs shall be made under division (B) of this section on behalf of a child if either of the following apply:~~

~~(a)(f)~~ The gross income of the adoptive parent's family ~~exceeds~~ does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended;

~~(b)(g)~~ The child is not eligible for adoption assistance payments ~~for maintenance costs~~ under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended.

(2) State adoption maintenance subsidy payment agreements must be made by either the public children services agency that has permanent custody of the child or the public children services agency of the county in which the private child placing agency that has permanent custody of the child is located.

(3) State adoption maintenance subsidy payments shall be made in accordance with the agreement between the public children services agency and the adoptive parent and are subject to an annual redetermination of need.

(4) Payments under this division (B) of this section may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not issued within that time because of a delay in court proceedings. Payments that begin before issuance of the final adoption decree may continue after its issuance.

(C)(1) If, after the child's adoption is finalized, a public children services agency considers a child residing in the county served by the agency to be in need of public care or protective services and both of the following apply, the agency may, and to the extent state funds are appropriated for this purpose shall, enter into an agreement with the child's adoptive parent after the child is adopted under which the agency shall make post adoption special services subsidy payments on behalf of the child as needed when both of the following apply:

~~(1)(a)~~ (a) The child has a physical or developmental handicap or mental or emotional condition that either:

~~(a)(i)~~ (i) Existed before the adoption petition was filed; or

~~(b)(ii)~~ Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history.

~~(2)(b)~~ The agency determines the expenses necessitated by the child's handicap or condition are beyond the adoptive parent's economic resources.

~~Payments to an adoptive parent~~ (2) Services for which a public children services agency may make post adoption special services subsidy payments on behalf of a child under this division shall include medical, surgical, psychiatric, psychological, and counseling expenses services, including residential treatment.

(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services.

(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year.

(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child; except that a public children services agency may waive this requirement if the gross annual income of the child's adoptive family is not more than two hundred per cent of the federal poverty guideline.

(6) A public children services agency may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose.

~~(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a mentally or physically handicapped person twenty-one years of age or older. Payments under those divisions shall be made in accordance with the terms of the agreement between the public children services agency and the adoptive parent, subject to an annual redetermination of need. The agency may use sources of funding in addition to any state funds appropriated for the purposes of those divisions.~~

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that are needed to implement this section. The rules shall establish all of the following:

(1) The application process for ~~payments~~ all forms of assistance provided under this section;

(2) The method to determine the ~~amounts and kinds~~ amount of assistance payable under division (B) of this section;

(3) The definition of "child with special needs" for this section;

(4) The process whereby a child's continuing need for services provided under division (B) of this section is annually redetermined;

(5) The method of determining the amount, duration, and scope of services provided to a child under division (C) of this section;

(6) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this section.

~~The rules shall allow for payments for children placed by nonpublic agencies.~~

~~(E)~~(F) The state adoption special services subsidy program ceases to exist on July 1, 2004, except that, subject to the findings of the annual redetermination process established under division (E) of this section and the child's individual need for services, a public children services agency may continue to provide state adoption special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004.

(G) No public children services agency shall, pursuant to either section 2151.353 or 5103.15 of the Revised Code, place or maintain a child with special needs who is in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised Code in a setting other than with a person seeking to adopt the child, unless the agency has determined and redetermined at intervals of not more than six months the impossibility of adoption by a person listed pursuant to division (B), (C), or (D) of section 5103.154 of the Revised Code, including the impossibility of entering into a payment agreement with such a person. The agency so maintaining such a child shall report its reasons for doing so to the department of job and family services. ~~No agency that fails to so determine, redetermine, and report shall receive more than fifty per cent of the state funds to which it would otherwise be eligible for that part of the fiscal year following placement under section 5101.14 of the Revised Code.~~

The department may take any action permitted under section 5101.24 of the Revised Code for an agency's failure to determine, redetermine, and report on a child's status.

Sec. 5153.60. (A) The department of job and family services shall establish a statewide program that provides ~~the~~ all of the following:

(1) The training section 5153.122 of the Revised Code requires public

children services agency caseworkers and supervisors to complete. ~~The program may also provide the;~~

(2) The preplacement and continuing training described in sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the Revised Code that foster caregivers are required by sections 5103.031, 5103.032, and 5103.033 of the Revised Code to obtain. ~~The;~~

(3) The education programs for adoption assessors required by section 3107.014 of the Revised Code.

(B) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program."

Sec. 5153.69. The training program steering committee shall monitor and evaluate the Ohio child welfare training program to ensure the following:

(A) That the Ohio child welfare training program is a competency-based training system that satisfies the training requirements for public children services agency caseworkers and supervisors under section 5153.122 of the Revised Code;

(B) That, ~~if~~ the Ohio child welfare training program provides preplacement or continuing training for foster caregivers, it as required by section 5153.60 of the Revised Code that meets the ~~same~~ requirements ~~that~~ preplacement training programs and continuing training programs must meet pursuant to section 5103.038 of the Revised Code to obtain approval by the department of job and family services, except that the Ohio child welfare training program is not required to obtain department approval.

Sec. 5153.72. Prior to the beginning of the fiscal biennium that first follows ~~the effective date of this section~~ October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties shall each establish and maintain a regional training center. At any time after the beginning of that biennium, the department of job and family services, on the recommendation of the training program steering committee, may direct a public children services agency to establish and maintain a training center to replace the center established by an agency under this section. There may be no more and no less than eight centers in existence at any time. The department may make a grant to a public children services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center.

Sec. 5153.78. (A) As used in this section:

(1) "Title IV-B" means Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended.

(2) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670(1980).

(3) "Title XX" has the same meaning as in section 5101.46 of the Revised Code.

(B) For purposes of adequately funding the Ohio child welfare training program, the department of job and family services may use any of the following:

(1) The federal financial participation funds withheld pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised Code in an amount determined by the department;

(2) Funds available under Title XX, Title IV-B, and Title IV-E to pay for training costs;

(3) Other available state or federal funds.

Sec. 5310.15. On filing an application for registration, the applicant shall pay to the clerk of the probate court or the clerk of the court of common pleas ten dollars, which is full payment for all clerk's fees and charges in such proceeding on behalf of the applicant. Any defendant, except a guardian ad litem, on entering ~~his~~ an appearance by filing a pleading of any kind, shall pay to the clerk five dollars, which is full payment for all clerk's fees on behalf of such defendant. When any number of defendants enter their appearance at the same time in one pleading by filing a pleading of any kind, one fee shall be paid.

Every required publication in a newspaper shall be paid for by the party on whose application the order of publication is made, in addition to the fees prescribed in the first paragraph of this section. The party at whose request, or on whose behalf, any notice is issued, shall pay for the service of such notice except when such notice is sent by mail by the clerk or the county recorder.

Examiners of titles shall receive for examining title or original reference, and making report on all matters arising under the application, including final certificate as to all necessary parties being made and properly brought before the probate court or the court of common pleas, and as to the proceedings being regular and legal, one half of one per cent of the appraised tax value, the fee in no case to be less than seventy-five or more than two hundred fifty dollars, for each separate and distinct parcel of land included in the application although made up of more than one tract.

Upon a reference to an examiner of titles or to any other person upon a hearing to take evidence and make report to the court, the fee of the referee shall be fixed by the court at not more than fifteen dollars per day for the time actually employed.

For a certificate of an examiner of titles that all necessary parties are before the court, and the proceedings are regular and legal in a suit for partition, foreclosure of mortgage, marshalling of liens, or other suit or proceeding affecting the title of any interest in, or lien or charge upon registered lands, the fees shall be fixed by the court, and shall not be more than twenty-five dollars for each separate and distinct parcel of land included in the petition or application although such parcel is made up of more than one tract.

Guardians for the suit in original registration shall receive three dollars when there is no contest in which the guardian participates. In other cases such guardians shall receive such fees as the court fixes, but not more than twenty-five dollars.

For certifying pending suits, judgments, liens, attachments, executions, or levies, the officers certifying them to the recorder shall receive a fee of twenty-five cents to be paid by the party interested and taxed in the costs of the case.

For serving summons, notice, or other paper provided for in sections 5309.02 to 5310.21 of the Revised Code, the sheriff or other officer shall receive the same fees as in other similar cases.

The recorder shall receive the following fees, to include base fees for services and housing trust fund fees pursuant to section 317.36 of the Revised Code:

(A) For original registration of title, issuing duplicate certificate, entering memorials and memorandums, as directed by the decree, and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars;

(B) For examining and registering each transfer of registered land, including the filing of all papers therewith, entering memorials, issuing new duplicate certificate of title and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars for the first distinct body or parcel of land contained in such certificate, and a base fee of two dollars and a housing trust fund fee of two dollars for each additional distinct body or parcel of land contained in such certificate;

(C) For filing, examining, and entering a memorial of each mortgage or lease, upon registered land, and indexing it, for each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars;

(D) For filing, examining, and entering a memorial of each lien, charge, or demand upon registered land, and indexing it, for each separately registered parcel of land, a base fee of five dollars and a housing trust fund fee of five dollars;

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; for entry of change of address, or notice of dower, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(F) For each certified copy of a registered certificate, or issuing a mortgagee's duplicate certificate, or issuing a new owner's duplicate certificate to replace one which has been lost or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars;

(G) For filing, examining, and entering a memorial of each release, assignment, or waiver of priority of a mortgage, lease, lien, charge, or demand upon registered land and indexing it, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(H) For filing, examining, and entering a memorial of each official certificate of pending suit, judgment, lien, attachment, execution, or levy, upon registered land and indexing it, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(I) For continuing an owner's duplicate certificate, or mortgagee's duplicate certificate and entering and certifying memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars;

(J) For certificate as to taxes and special assessments, for each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars;

(K) For filing, recording, and indexing any papers or instruments other than those provided in this section, any certified copy of record, or of any instrument on file in ~~his~~ the recorder's office, the same fees allowed by law for like services;

(L) For issuing subpoenas and notices and swearing witnesses, the same fees allowed the clerk for like services.

Costs as provided in this section may be taxed and by the court ordered to be paid by the parties in such manner as is just.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.

The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in Chapter 4765. of the Revised Code.

(C) The department shall administer and enforce the laws contained in Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of job and family services to administer food stamp programs throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the food stamp program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local entities for those activities and related purposes.

Sec. 5502.03. (A) There is hereby created in the department of public safety a division of homeland security. It is the intent of the general assembly that the creation of the division of homeland security of the department of public safety by this amendment does not result in an increase

of funding appropriated to the department.

(B)(1) The division shall coordinate all homeland security activities of all state agencies and shall be the liaison between state agencies and local entities for the purposes of communicating homeland security funding and policy initiatives.

(2) The division shall be in charge of the systems operations of the multi-agency radio communications system (MARCS) in accordance with any rules that the director of public safety may adopt. The director shall appoint a steering committee to advise the director in the operation of the MARCS, comprised of persons who represent the users of that system. The director or the director's designee shall chair the committee.

(C) The director of public safety shall appoint an executive director, who shall be head of the division of homeland security and who regularly shall advise the governor and the director on matters pertaining to homeland security. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain necessary staff and may enter into any necessary agreements.

(D) Except as otherwise provided by law, nothing in this section shall be construed to give the director of public safety or the executive director of the division of homeland security authority over the incident management structure or responsibilities of local emergency response personnel.

Sec. 5502.13. The department of public safety shall maintain an investigative unit in order to conduct investigations and other enforcement activity authorized by Chapters 4301., 4303., 5101., 5107., ~~and 5108., and 5115.~~ and sections 2903.12, 2903.13, 2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, ~~and 4507.30, and 5115.03~~ of the Revised Code. The director of public safety shall appoint the employees of the unit who are necessary, designate the activities to be performed by those employees, and prescribe their titles and duties.

Sec. 5513.01. (A) All purchases of machinery, materials, supplies, or other articles that the director of transportation makes shall be in the manner provided in this section. In all cases except those in which the director provides written authorization for purchases by district deputy directors of transportation, all such purchases shall be made at the central office of the department of transportation in Columbus. Before making any purchase at that office, the director, as provided in this section, shall give notice to bidders of the director's intention to purchase. Where the expenditure does

not exceed the amount applicable to the purchase of supplies specified in division (B)(1) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give such notice as the director considers proper, or the director may make the purchase without notice. Where the expenditure exceeds the amount applicable to the purchase of supplies specified in division (B)(1) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give notice by posting for not less than ten days a written, typed, or printed invitation to bidders on a bulletin board, which shall be located in a place in the offices assigned to the department and open to the public during business hours. Producers or distributors of any product may notify the director, in writing, of the class of articles for the furnishing of which they desire to bid and their post-office addresses, in which case copies of all invitations to bidders relating to the purchase of such articles shall be mailed to such persons by the director by regular first class mail at least ten days prior to the time fixed for taking bids. The director also may mail copies of all invitations to bidders to news agencies or other agencies or organizations distributing information of this character. Requests for invitations shall not be valid nor require action by the director unless renewed, either annually or after such shorter period as the director may prescribe by a general rule. The invitation to bidders shall contain a brief statement of the general character of the article that it is intended to purchase, the approximate quantity desired, and a statement of the time and place where bids will be received, and may relate to and describe as many different articles as the director thinks proper, it being the intent and purpose of this section to authorize the inclusion in a single invitation of as many different articles as the director desires to invite bids upon at any given time. Invitations issued during each calendar year shall be given consecutive numbers, and the number assigned to each invitation shall appear on all copies thereof of it. In all cases where notice is required by this section, sealed bids shall be taken, on forms prescribed and furnished by the director, and modification of bids after they have been opened shall not be permitted.

(B) The director may permit any political subdivision and any state university or college to participate in contracts into which the director has entered for the purchase of machinery, materials, supplies, or other articles. Any political subdivision or state university or college desiring to participate in such purchase contracts shall file with the director a certified copy of the ordinance or resolution of its legislative authority, board of trustees, or other governing board requesting authorization to participate in such contracts and agreeing to be bound by ~~such~~ the terms and conditions as the director

prescribes. Purchases made by political subdivisions or state universities or colleges under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies, or other articles.

(C) As used in this section:

(1) "Political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, port authority, regional transit authority, regional airport authority, regional water and sewer district, or county transit board.

(2) "State university or college" has the same meaning as in division (A)(1) of section 3345.32 of the Revised Code.

Sec. 5515.07. (A) The director of transportation, in accordance with Chapter 119. of the Revised Code, shall adopt rules consistent with the safety of the traveling public and consistent with the national policy to govern the use and control of rest areas within the limits of the right-of-way of interstate highways and other state highways and in other areas within the limits of the right-of-way of interstate highways.

(B) Except as provided in division (C) of this section, no person shall engage in selling or offering for sale or exhibiting for purposes of sale, goods, products, merchandise, or services within the bounds of rest areas within the limits of the right-of-way of interstate highways and other state highways, or in other areas within the limits of the right-of-way of interstate highways, unless the director issues a permit in accordance with section 5515.01 of the Revised Code. Notwithstanding any rules adopted by the director to the contrary or any other policy changes proposed by the director, each district deputy director of the department of transportation shall continue to implement any program allowing organizations to dispense free coffee or similar items after obtaining a permit that operated within the district prior to January 1, 1997. Each district deputy director shall operate such program within the district in the same manner as the program was operated prior to that date.

(C) In accordance with rules adopted under division (A) of this section, the director may cause vending machines to be placed within each rest area that is able to accommodate the machines. The vending machines shall dispense food, drink, and other appropriate articles.

(D) This section does not apply to the sale of goods, products, merchandise, or services required for the emergency repair of motor vehicles or emergency medical treatment, or to the department of transportation as provided in section 5515.08 of the Revised Code.

Sec. 5515.08. (A) The department of transportation may contract to sell commercial advertising space within or on the outside surfaces of any building located within a roadside rest area under its jurisdiction in exchange for cash payment. Money the department receives under this section shall be deposited in the state treasury to the credit of the roadside rest area improvement fund, which is hereby created. The department shall use the money in the fund only to improve roadside rest areas in accordance with section 5529.06 of the Revised Code.

(B) Advertising placed under this section shall comply with all of the following:

(1) It shall not be libelous or obscene and shall not promote any illegal product or service.

(2) It shall not promote illegal discrimination on the basis of the race, religion, national origin, handicap, age, or ancestry of any person.

(3) It shall not support or oppose any candidate for political office or any political cause, issue, or organization.

(4) It shall comply with any controlling federal or state regulations or restrictions.

(5) To the extent physically and technically practical, it shall state that the advertisement is a paid commercial advertisement and that the state does not endorse the product or service promoted by the advertisement or make any representation about the accuracy of the advertisement or the quality or performance of the product or service promoted by the advertisement.

(6) It shall conform to all applicable rules adopted by the director of transportation under division (E) of this section.

(C) Contracts entered into under this section shall be awarded only to the qualified bidder who submits the highest responsive bid or according to uniformly applied rate classes.

(D) No person, except an advertiser alleging a breach of contract or the improper awarding of a contract, has a cause of action against the state with respect to any contract or advertising authorized by this section. Under no circumstances is the state liable for consequential or noneconomic damages with respect to any contract or advertising authorized under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section. The rules shall be consistent with the policy of protecting the safety of the traveling public and consistent with the national policy governing the use and control of such roadside rest areas. The rules shall regulate the awarding of contracts and may regulate the content, display, and other aspects of the commercial advertising authorized by this section.

Sec. 5549.21. The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may authorize the purchase or employment of such material and labor by one of its number, or by the township highway superintendent, at a price to be fixed by the board. All payments on account of machinery, tools, material, and labor shall be made from the township road fund. Except as otherwise provided in sections 505.08, 505.101, and 5513.01 of the Revised Code, all purchases of materials, machinery, and tools shall, ~~where~~ if the amount involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made from the lowest responsible bidder after advertisement, as provided in section 5575.01 of the Revised Code. ~~Where~~

If, in compliance with section 505.10 of the Revised Code, the board wishes to sell machinery, equipment, or tools owned by the township to the person from whom it is to purchase other machinery, equipment, or tools, the board may offer, ~~where~~ if the amount of the purchase alone involved does not exceed ~~fifteen~~ twenty-five thousand dollars, to sell such machinery, equipment, or tools and have the amount credited by the vendor against the purchase of the other machinery, equipment, or tools. ~~Where~~ If the purchase price of the other machinery, equipment, or tools alone exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give notice to the competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment, or tools, and ~~such~~ those offers shall be subtracted from the selling price of the other machinery, equipment, or tools as bid, in determining the lowest responsible bidder. Notice of the willingness of the board to accept offers for the purchase of the old machinery, equipment, or tools shall be made as a part of the advertisement for bids.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the

Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, or fee refund, or tax credit due, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state may shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from current receipts of the same tax or the fee for from which the refund arose or, in the case of a tax credit refund, from the current receipts of the taxes levied by sections 5739.02 and 5741.02 of the Revised Code. If

If the tax refund arises from a tax payable to the general revenue fund, and current receipts from that source the tax or fee from which the refund arose are inadequate to make the transfer of the amount so certified, the treasurer of state may shall transfer such certified amount from current receipts of the sales tax levied by section 5739.02 of the Revised Code.

(2) When the treasurer of state provides for the payment of a refund of a tax or fee from the current receipts of the sales tax, and the refund is for a tax or fee that is not levied by the state, the tax commissioner shall recover the amount of that refund from the next distribution of that tax or fee that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax or fee, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5703.56. (A) As used in this section:

(1) "Sham transaction" means a transaction or series of transactions without economic substance because there is no business purpose or expectation of profit other than obtaining tax benefits.

(2) "Tax" includes any tax or fee administered by the tax commissioner.

(3) "Taxpayer" includes any entity subject to a tax.

(4) "Controlled group" means two or more persons related in such a way that one person directly or indirectly owns or controls the business operation of another member of the group. In the case of persons with stock or other equity, one person owns or controls another if it directly or indirectly owns more than fifty per cent of the other person's common stock with voting rights or other equity with voting rights.

(B) The tax commissioner may disregard any sham transaction in ascertaining any taxpayer's tax liability. Except as otherwise provided in the

Revised Code, with respect to transactions between members of a controlled group, the taxpayer shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions between the taxpayer and one or more members of the controlled group was not a sham transaction. Except as otherwise provided in the Revised Code, for all other taxpayers, the tax commissioner shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions was a sham transaction.

(C) In administering any tax, the tax commissioner may apply the doctrines of "economic reality," "substance over form," and "step transaction."

(D) If the commissioner disregards a sham transaction under division (B) of this section, the applicable limitation period for assessing the tax, together with applicable penalties, charges, and interest, shall be extended for a period equal to the applicable limitation period. Nothing in this division shall be construed as extending an applicable limitation period for claiming any refund of a tax.

(E) The tax commissioner may, in accordance with Chapter 119. of the Revised Code, adopt rules that are necessary to administer this section, including rules establishing criteria for identifying sham transactions.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio business gateway and shall recommend to the department of administrative services enhancements that will improve the Ohio business gateway. The committee shall consider all banking, technological, administrative, and other issues associated with the Ohio business gateway and shall make recommendations regarding the type of reporting forms or other tax documents to be filed through the Ohio business gateway.

(C) The committee shall consist of:

(1) The following members, appointed by the governor with the advice and consent of the senate:

(a) Not more than two representatives of the business community;

(b) Not more than three representatives of municipal tax administrators;

and

(c) Not more than two tax practitioners.

(2) The following ex officio members:

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee;

(b) The secretary of state or the secretary of state's designee;

(c) The treasurer of state or the treasurer of state's designee;

(d) The director of budget and management or the director's designee;

(e) The director of administrative services or the director's designee; and

(f) The tax commissioner or the tax commissioner's designee.

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments.

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties.

(E) The committee is a part of the department of taxation for administrative purposes.

(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as the committee's secretary. The secretary shall keep minutes of the committee's meetings and a journal of all meetings, proceedings, findings, and determinations of the committee.

(G) The committee shall hire professional, technical, and clerical staff needed to support its activities.

(H) The committee shall meet as often as necessary to perform its duties.

Sec. 5703.80. There is hereby created in the state treasury the property tax administration fund. All money to the credit of the fund shall be used to defray the costs incurred by the department of taxation in administering the taxation of property and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties:

(A) Three-tenths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility

property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(B) Fifteen-hundredths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year;

(C) Seventy-five hundredths of one per cent of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code.

After receiving the tax commissioner's certification, the director of budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May.

On or before the thirtieth day of June of the fiscal year, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under divisions (A), (B), and (C) of this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund.

Sec. 5705.39. The total appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom, as certified by the budget commission, or in case of appeal, by the board of tax appeals. No appropriation measure shall become effective until the county auditor files with the appropriating authority ~~and in the case of a school district, also files with the superintendent of public instruction,~~ a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed such official estimate or amended official estimate. When the appropriation does not exceed such official estimate, the county auditor shall give such certificate forthwith upon receiving from the appropriating authority a certified copy of the appropriation measure, ~~a copy of which he shall deliver to the superintendent of public instruction in the case of a school district.~~ Appropriations shall be made from each fund only for the purposes for which such fund is established.

Sec. 5705.41. No subdivision or taxing unit shall:

(A) Make any appropriation of money except as provided in Chapter 5705. of the Revised Code; provided, that the authorization of a bond issue

shall be deemed to be an appropriation of the proceeds of the bond issue for the purpose for which such bonds were issued, but no expenditure shall be made from any bond fund until first authorized by the taxing authority;

(B) Make any expenditure of money unless it has been appropriated as provided in such chapter;

(C) Make any expenditure of money except by a proper warrant drawn against an appropriate fund;

(D)(1) Except as otherwise provided in division (D)(2) of this section and section 5705.44 of the Revised Code, make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the subdivision that the amount required to meet the obligation or, in the case of a continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the obligation in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances. This certificate need be signed only by the subdivision's fiscal officer. Every such contract made without such a certificate shall be void, and no warrant shall be issued in payment of any amount due thereon. If no certificate is furnished as required, upon receipt by the taxing authority of the subdivision or taxing unit of a certificate of the fiscal officer stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract and in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances, such taxing authority may authorize the drawing of a warrant in payment of amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days after the taxing authority receives such certificate; provided that, if the amount involved is less than one hundred dollars in the case of counties or three thousand dollars in the case of all other subdivisions or taxing units, the fiscal officer may authorize it to be paid without such affirmation of the taxing authority of the subdivision or taxing unit, if such expenditure is otherwise valid.

(2) Annually, the board of county commissioners may adopt a resolution exempting for the current fiscal year county purchases of seven hundred fifty dollars or less from the requirement of division (D)(1) of this section that a certificate be attached to any contract or order involving the expenditure of money. The resolution shall state the dollar amount that is exempted from the certificate requirement and whether the exemption applies to all purchases, to one or more specific classes of purchases, or to

the purchase of one or more specific items. Prior to the adoption of the resolution, the board shall give written notice to the county auditor that it intends to adopt the resolution. The notice shall state the dollar amount that is proposed to be exempted and whether the exemption would apply to all purchases, to one or more specific classes of purchases, or to the purchase of one or more specific items. The county auditor may review and comment on the proposal, and shall send any comments to the board within fifteen days after receiving the notice. The board shall wait at least fifteen days after giving the notice to the auditor before adopting the resolution. A person authorized to make a county purchase in a county that has adopted such a resolution shall prepare and file with the county auditor, within three business days after incurring an obligation not requiring a certificate, a written document specifying the purpose and amount of the expenditure, the date of the purchase, the name of the vendor, and such additional information as the auditor of state may prescribe.

(3) Upon certification by the auditor or other chief fiscal officer that a certain sum of money, not in excess of ~~five thousand dollars~~ an amount established by resolution or ordinance adopted by a majority of the members of the legislative authority of the subdivision or taxing unit, has been lawfully appropriated, authorized, or directed for a certain purpose and is in the treasury or in the process of collection to the credit of a specific line-item appropriation account in a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such line-item appropriation account in such fund, over a period ~~not exceeding three months and~~ not extending beyond the end of the fiscal year, expenditures may be made, orders for payment issued, and contracts or obligations calling for or requiring the payment of money made and assumed; provided, that the aggregate sum of money included in and called for by such expenditures, orders, contracts, and obligations shall not exceed the sum so certified. Such a certification need be signed only by the fiscal officer of the subdivision or the taxing district and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such certificate shall be rendered to the auditor or other chief fiscal officer before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

In addition to providing the certification for expenditures ~~of five thousand dollars or less~~ as ~~provided~~ specified in this division, a subdivision also may make expenditures, issue orders for payment, and make contracts or obligations calling for or requiring the payment of money made and assumed for specified permitted purposes from a specific line-item

appropriation account in a specified fund for a sum of money upon the certification by the fiscal officer of the subdivision that this sum of money has been lawfully appropriated, authorized, or directed for a permitted purpose and is in the treasury or in the process of collection to the credit of the specific line-item appropriation account in the specified fund free from previous and then-outstanding obligations or certifications; provided that the aggregate sum of money included in and called for by the expenditures, orders, and obligations shall not exceed the certified sum. The purposes for which a subdivision may lawfully appropriate, authorize, or issue such a certificate are the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the subdivision or contracting authority; fuel oil, gasoline, food items, roadway materials, and utilities; and any purchases exempt from competitive bidding under section 125.04 of the Revised Code and any other specific expenditure that is a recurring and reasonably predictable operating expense. Such a certification shall not extend beyond the end of the fiscal year or, in the case of a board of county commissioners that has established a quarterly spending plan under section 5705.392 of the Revised Code, beyond the quarter to which the plan applies. Such a certificate shall be signed by the fiscal officer and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such a certificate shall be rendered to the fiscal officer for each certificate issued. More than one such certificate may be outstanding at any time.

In any case in which a contract is entered into upon a per unit basis, the head of the department, board, or commission for the benefit of which the contract is made shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the fiscal officer of the subdivision. Such a contract may be entered into if the appropriation covers such estimate, or so much thereof as may be due during the current year. In such a case the certificate of the fiscal officer based upon the estimate shall be a sufficient compliance with the law requiring a certificate.

Any certificate of the fiscal officer attached to a contract shall be binding upon the political subdivision as to the facts set forth therein. Upon request of any person receiving an order or entering into a contract with any political subdivision, the certificate of the fiscal officer shall be attached to such order or contract. "Contract" as used in this section excludes current payrolls of regular employees and officers.

Taxes and other revenue in process of collection, or the proceeds to be

derived from authorized bonds, notes, or certificates of indebtedness sold and in process of delivery, shall for the purpose of this section be deemed in the treasury or in process of collection and in the appropriate fund. This section applies neither to the investment of sinking funds by the trustees of such funds, nor to investments made under sections 731.56 to 731.59 of the Revised Code.

No district authority shall, in transacting its own affairs, do any of the things prohibited to a subdivision by this section, but the appropriation referred to shall become the appropriation by the district authority, and the fiscal officer referred to shall mean the fiscal officer of the district authority.

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the Revised Code:

(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substances, or any combination thereof.

(B) "Air pollution control facility" means any property designed, constructed, or installed for the primary purpose of eliminating or reducing the emission of, or ground level concentration of, air contaminants which generated at an industrial or commercial plant or site that renders air harmful or inimical to the public health or to property within this state, or such property installed on or after November 1, 1993, at a petroleum refinery for the primary purpose of eliminating or reducing substances within fuel that otherwise would create the emission of air contaminants upon the combustion of fuel.

(C) "Energy conversion" means the conversion of fuel or power usage and consumption from natural gas to an alternate fuel or power source other than propane, butane, naphtha, or fuel oil; or the conversion of fuel or power usage and consumption from fuel oil to an alternate fuel or power source other than natural gas, propane, butane, or naphtha.

(D) "Energy conversion facility" means any additional property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or commercial plant or site for the primary purpose of energy conversion.

(E) "Exempt facility" means any of the facilities defined in division (B), (D), (F), (I), (K), or (L) of this section for which an exempt facility certificate is issued pursuant to section 5709.21 or for which a certificate remains valid under section 5709.201 of the Revised Code.

(F) "Noise pollution control facility" means any property designed, constructed, or installed ~~in or on~~ for use at an industrial or commercial plant or site for the primary purpose of eliminating or reducing, at that plant or site, the emission of sound which is harmful or inimical to persons or

property, or materially reduces the quality of the environment, as shall be determined by the director of environmental protection within such standards for noise pollution control facilities and standards for environmental noise necessary to protect public health and welfare as may be promulgated by the United States environmental protection agency. In the absence of such United States environmental protection agency standards, the determination shall be made in accordance with generally accepted current standards of good engineering practice in environmental noise control.

Facilities (G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris.

(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose.

(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion.

(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating.

(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement.

(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to an industrial water pollution control facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised

Code, as applicable, apply to the terms used in this division.

(M) Property designed, constructed, installed, used, or placed in operation solely primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel, or by of a business solely for its, or primarily for a business's own benefit, are not pollution control facilities is not an "exempt facility."

Sec. 5709.201. (A) Except as provided in divisions (C)(4)(a) and (c) of section 5709.22 and division (F) of section 5709.25 of the Revised Code, a certificate issued under section 5709.21, 5709.31, 5709.46, or 6111.31 of the Revised Code that was valid and in effect on the effective date of this section shall continue in effect subject to the law as it existed before that effective date. Division (C)(4)(b) of section 5709.22 of the Revised Code does not apply to any certificate issued by the tax commissioner before July 1, 2003.

(B) Any applications pending on the effective date of this section for which a certificate had not been issued on or before that effective date under section 6111.31 of the Revised Code shall be transferred to the tax commissioner for further administering. Sections 5709.20 to 5709.27 of the Revised Code apply to such pending applications, excluding the requirement of section 5709.212 of the Revised Code that applicants must pay the fee.

(C) For applications pending on the effective date of this section, division (D) of section 5709.25 of the Revised Code allowing the commissioner to assess any additional tax notwithstanding any other time limitations imposed by law on the denied portion of the applicant's claim applies only to tax periods that would otherwise be open to assessment on that effective date.

Sec. 5709.21. (A) As used in this section:

(1) "Exclusive property" means real and personal property that is installed, used, and necessary for the operation of an exempt facility, and that is not auxiliary property unless the auxiliary property exempt cost equals or exceeds eighty-five per cent of the total cost of the property.

(2) "Auxiliary property" means personal property installed, used, and necessary for the operation of an exempt facility that is also used in other operations of the business other than an exempt facility purpose described in section 5709.20 of the Revised Code. "Auxiliary property" does not include property with an auxiliary property exempt cost that is less than or equal to fifteen per cent of the total cost of such property.

(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows:

(a) If the auxiliary property is used for an exempt facility purpose for

discrete periods of time, the exempt cost shall be determined by the ratio of time the auxiliary property is in use in such exempt capacity to the total time it is in use. Division (A)(3)(a) of this section does not apply if the property is concurrently used for an exempt facility purpose and a nonexempt facility purpose.

(b) The applicant has the burden of proving the exempt cost of all auxiliary property not described in division (A)(3)(a) of this section.

(c) Any cost related to an expansion of the commercial or industrial site that is not related to the operation of the exempt facility shall not be included as an auxiliary exempt cost under division (A)(3) of this section.

(B) Application for an ~~air or noise pollution control~~ exempt facility certificate shall be filed with the tax commissioner in such manner and in such form as ~~may be~~ prescribed by ~~regulations issued by the~~ tax commissioner ~~and~~. The application shall contain plans and specifications of the ~~structure or structures~~ property, including all materials incorporated ~~and~~ or to be incorporated therein ~~and~~ their associated costs, and a descriptive list of all equipment acquired or to be acquired by the applicant for the ~~purpose of air or noise pollution control~~ exempt facility and its associated cost. If the commissioner, ~~after obtaining the opinion of the director of environmental protection,~~ finds that the ~~proposed facility~~ property was designed primarily for the ~~control of air or noise pollution as defined in section 5709.20 of the Revised Code,~~ as an exempt facility and is suitable and reasonably adequate for such purpose and is intended for such purpose, ~~he~~ the commissioner shall enter a finding and issue a certificate to that effect. ~~Said certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such pollution control facility or that part used exclusively for air or noise pollution control.~~ The effective date of ~~said~~ the certificate shall be the date of the ~~making of the~~ application ~~was made~~ for such certificate or the date of the construction of the facility, whichever is earlier; ~~provided, that if such application relates to facilities placed in operation or capable of operation prior to October 2, 1969, the effective date of the certificate shall be the date of the application.~~

Nothing in this section shall be construed to extend the time period to file, to keep the time period to file open, or supersede the requirement of filing a tax refund or other tax reduction request in the manner and within the time prescribed by law.

(C)(1) Except as provided in division (C)(2) of this section, the certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such exempt facility that is exclusive property used for a purpose enumerated in section 5709.20 of the Revised

Code.

(2) Auxiliary property shall be permitted a partial tax exemption under section 5709.25 of the Revised Code, but only to the extent allowed pursuant to division (A)(3) of this section.

(D) The tax commissioner may allow an applicant to file one application that applies to more than one exempt facility that are the same or substantially similar, so long as such facilities are located within the same county.

Sec. 5709.211. (A) Before issuing an exempt facility certificate pursuant to section 5709.21 of the Revised Code, the tax commissioner shall provide a copy of a properly completed application to, and obtain the opinion of, the director of environmental protection in the case of an exempt facility described in division (B), (F), or (L) of section 5709.20 of the Revised Code, or provide a copy of the application to, and obtain the opinion of, the director of development in the case of an application for an exempt facility described in division (D), (I), or (K) of section 5709.20 of the Revised Code. The opinion shall provide the commissioner with a recommendation of whether the property is primarily designed, constructed, installed, and used as an exempt facility. The applicant shall provide additional information upon request by the tax commissioner, the director of environmental protection, or the director of development, and allow them to inspect the property listed in the application for the purposes of sections 5709.20 to 5709.27 of the Revised Code. The tax commissioner shall provide to the applicant a copy of the opinion issued by either the director of environmental protection or the director of the department of development.

(B) The opinions of the director of the environmental protection agency and the director of development under division (A) of this section or division (C)(4) of section 5709.22 of the Revised Code are not final actions or orders subject to appeal.

Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. One-half of the fee received with applications for exempt facility certificates shall be credited to the exempt facility administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering sections 5709.20 to 5709.27 of the Revised Code. If the director of environmental protection is required to provide the opinion for an application, one-half of the fee shall be credited to the clean air fund created in section 3704.035 of the Revised Code for use in administering section

5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. If the application is for an industrial water pollution control facility, one-half of the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of development is required to provide the opinion for an application, one-half of the fee for each exempt facility application shall be credited to the exempt facility inspection fund, which is hereby created in the state treasury, for appropriation to the department of development for use in administering section 5709.211 of the Revised Code.

An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is not issued or is withdrawn. Any application submitted without payment of the fee shall be deemed incomplete until the fee is paid.

(B) The application fee imposed under division (A) of this section for a jointly owned facility shall be equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars for each facility that is the subject of the application.

Sec. 5709.22. Before issuing any certificate the tax commissioner shall give notice in writing by mail to the auditor of the county in which such facilities are located, and shall afford to the applicant and to the auditor an opportunity for a hearing. On like notice to the applicant and opportunity for a hearing, the commissioner shall on his (A) After receiving an opinion from the director of environmental protection or the director of development, the tax commissioner shall promptly ascertain if an application filed under section 5709.21 of the Revised Code shall be allowed or disallowed in whole or in part. The commissioner shall give written notice of the proposed finding to the applicant and the county auditor of the county in which the facility described in the application is located. Within sixty days after sending written notice of the proposed finding, the applicant or the county auditor may file a request for reconsideration, in writing, to the commissioner and may request that the commissioner conduct a hearing on the application. If no request for reconsideration is filed, the commissioner's proposed findings shall be final and, if applicable, the commissioner shall issue an exempt facility certificate, which shall not be subject to appeal pursuant to section 5717.02 of the Revised Code.

(B) If a reconsideration of the tax commissioner's proposed finding is requested by the applicant or the county auditor, the commissioner shall

notify the applicant and the auditor of the time and place of the hearing, which the commissioner may continue from time to time as the commissioner finds necessary. The commissioner also shall notify the environmental protection agency or department of development, as applicable, of the hearing. The environmental protection agency or the department of development shall participate in the hearing if requested in writing by the commissioner, the applicant, or the county auditor. After conducting the hearing, the commissioner shall issue a final determination, with a copy of it served on the applicant and applicable county auditors in the manner prescribed by section 5703.37 of the Revised Code. The final determination is subject to appeal pursuant to section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue, if applicable, the exempt facility certificate based on the outcome of the appeal.

(C) The tax commissioner, on the commissioner's own initiative or on complaint by the county auditor of the any county in which any property to which such air or noise pollution control the exempt facility certificate relates is located, shall revoke such air or noise pollution control certificate whenever any of the following appears the certificate, or modify it by restricting its operation, if it appears to the commissioner that any of the following has occurred:

~~(A)(1)~~ The certificate was obtained by fraud or misrepresentation; ~~(B)(2)~~

The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of air or noise pollution control facilities an exempt facility;

~~(C)(3)~~ The structure or equipment or both property to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

Provided, that where the circumstances so require, the commissioner in lieu of revoking such certificate may modify the same by restricting its operations as an exempt facility;

(4) The tax commissioner issued the certificate in error. As used in this section, "error" means any of the following:

(a) A clerical or mathematical mistake;

(b) When the commissioner agrees with an opinion from the director of environmental protection or the director of development that a certificate should not have been issued;

(c) When the tax commissioner determines that the issuance of the certificate may have been improper as the result of a final adjudication by the board of tax appeals, or by a court with jurisdiction on appeal from that

board, that is adverse to the original exempt status of the facility, regardless of whether the holder of the certificate was a party to such adjudication.

(D) If the revocation or modification of a certificate under division (C)(4) of this section is an action found to be frivolous for the purposes of section 5703.54 of the Revised Code the certificate holder may claim damages as provided under division (B) of that section.

~~On the mailing of notice of the action of the commissioner revoking or modifying an air or noise pollution control certificate as provided in section 5709.23 of the Revised Code, such~~ (E) Upon service of notice certificate to the holder of an exempt facility certificate, in the manner provided in section 5703.37 of the Revised Code, of the tax commissioner's revocation or modification of the certificate under division (C) of this section, the certificate shall cease to be in force or shall remain in force only as modified, as the case may require. The notice is subject to appeal under section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue a modified certificate, if applicable, and the holder of the certificate shall be allowed to claim a refund within one hundred eighty days, notwithstanding any other time limitation provided by law of the taxes paid as a result of the certificate being revoked or modified.

Sec. 5709.23. (A) As soon as is practicable after receiving an application for an exempt facility certificate, the tax commissioner shall provide a copy of the application and any accompanying documentation to the county auditor of the county in which the facility is located. The copy shall be accompanied by a statement showing an estimate of what the assessed value of the facility would be, based on the appropriate assessment percentage, if the facility were to be taxable, and an estimate of the taxes that would be chargeable against the facility computed on the basis of the rate of taxation in the taxing district in the year in which the application is received. Within sixty days after receiving such a statement, the county auditor shall issue a notice to the taxing authority of each taxing unit in which the facility is or is to be located. The notice shall state that an application for an exempt facility certificate has been filed for the facility; the estimated assessed value of the facility shown on the statement; the annual amount of taxes that would be charged and payable on that value at the current rate of taxation in effect in the taxing unit; and that, if approved, the application entitles the facility to exemption from taxation and the taxing unit may be required to refund any taxes on the facility accruing after the certificate becomes effective. The tax commissioner shall issue an amended statement if, after the original statement is issued, the estimate of such assessed value increases or decreases by more than ten per cent of the

estimated value shown on the most recently issued statement or amended statement, and the county auditor shall issue an amended notice reflecting such change.

(B) Upon request by the county auditor of the county in which the exempt facility described in the application is located, the tax commissioner shall provide the county auditor with any documents submitted with the opinion of the director of environmental protection or director of development, including a copy of opinion.

(C) Any documents, statements, and notices provided for under this section are solely for the purpose of notifying taxing authorities of the existence of an exempt facility application and the potential for a refund of taxes paid on an exempt facility before a tax exemption certificate is issued. Such documents, statements, and notices do not constitute an assessment that is subject to a petition for reassessment nor are such documents, statements, and notices appealable under section 5717.02 of the Revised Code by any person.

(D) The documents, statements, and notices provided by the tax commissioner under this section are subject to all applicable confidentiality provisions of law.

Sec. 5709.24. The tax commissioner may adopt rules to administer sections 5709.20 to 5709.27 of the Revised Code.

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ exempt facility certificate is issued ~~on a pollution control facility~~, the transfer of tangible personal property to the holder of the certificate, whether such transfer takes place before or after the issuance of the certificate, shall not be considered a "sale" of such tangible personal property for the purpose of the sales tax, or a "use" for the purpose of the use tax, if the tangible personal property is to be or was a material or part to be incorporated into an ~~air or noise pollution control~~ exempt facility as defined in section 5709.20 of the Revised Code.

(B) For the period subsequent to the effective date of an ~~air or noise pollution control~~ exempt facility certificate and continuing for so long as the certificate is in force, no ~~pollution control~~ exempt facility or certified portion thereof shall be considered to be either of the following:

- (1) An improvement on the land on which the ~~same~~ exempt facility is located for the purpose of real property taxation;
- (2) As "used in business" for the purpose of personal property taxation;
- (3) ~~As an asset of any corporation in determining the value of its issued and outstanding shares or the value of the property owned and used by it in this state for the purpose of the franchise tax.~~

(C)(1) The tax commissioner, upon receiving a properly completed application for an exempt facility certificate, may allow the applicant to claim the exemption provided by this section before the commissioner issues the certificate. The applicant is entitled to the exemption unless the commissioner notifies the applicant otherwise by serving notice upon the applicant in the manner prescribed by section 5703.37 of the Revised Code.

(2) A taxpayer whose tangible personal property is subject to taxation under Chapter 5727. of the Revised Code shall notify the commissioner in writing of any property the applicant does not want the commissioner to exclude from assessment. The notice shall be provided before the date the commissioner issues the preliminary assessment under section 5727.23 of the Revised Code.

(D)(1) Notwithstanding any other time limitations imposed by law, the commissioner may assess any additional tax or may assess any additional taxable property, including any applicable interest, on the denied portion of the applicant's claim for an exempt facility that the applicant claimed prior to the exempt facility certificate being issued or the application being denied. No assessment shall be made pursuant to this division after one hundred eighty days from the date the commissioner mails the exempt facility certificate or notice of the denial of the exempt facility certificate pursuant to section 5709.22 of the Revised Code. Nothing in this section shall prohibit an assessment that otherwise may be timely made by law.

(2) Assessments issued pursuant to division (D)(1) of this section shall be issued as amended preliminary assessment certificates under section 5711.31 of the Revised Code for personal property tax, as amended preliminary assessment certificates under section 5727.23 of the Revised Code for public utility tax, and as assessments under section 5733.11 of the Revised Code for corporation franchise tax, section 5739.13 of the Revised Code for sales tax, and section 5741.11 of the Revised Code for use tax, and are subject to the same appeal requirements as defined in those sections.

(3) Nothing in division (D) of this section allows the tax commissioner, after the expiration of the time limitation, to issue an assessment referenced in division (D)(2) of this section that increases any tax beyond the amount claimed by the applicant as an exempt facility.

(4) If an assessment is issued for only the denied portion of the application for an exempt facility, the only issue the applicant is permitted to raise on appeal of the assessment referenced in division (D)(2) of this section is that of the taxable property or transaction constituting the denied portion of the applicant's claim for an exempt facility.

(E) Except as otherwise provided in this division, no exemption for

additional property shall be claimed under this section after an exempt facility certificate has been issued for that facility unless the applicant files a new application under section 5709.21 of the Revised Code. The tax commissioner shall waive the requirement to file a new application under section 5709.21 of the Revised Code if the cost of the additional property, net of retirements for similar property, does not exceed five hundred thousand dollars during any calendar year. The fee imposed under section 5709.212 of the Revised Code for applications filed as a result of this division shall be five hundred dollars.

(F) If, as the result of a revaluation due to sale or bankruptcy or any other reason, the book value of property that is the subject of an exempt facility certificate is changed from the book value at the time of the original issuance of the certificate, the amount of exemption available to the owner is limited to the percentage resulting from the ratio of the historical cost of the property that is the subject of the exempt facility certificate to the historic cost of all tangible personal property and real property of the owner located at the same location as the property subject to the exempt facility certificate. If the result of using this ratio is greater than the original cost, then acceptable reasons for allowing such greater cost must be established with supporting documentation in order to qualify for the exemption above the original cost.

(G) After two years from the date the tax commissioner receives an application, the applicant may request in writing that the tax commissioner take final action on the pending application. Within ten days after receiving such a request, the tax commissioner shall issue a proposed finding, under section 5709.22 of the Revised Code, if the application is allowed in whole or in part. Otherwise, the tax commissioner shall issue a final determination denying the issuance of the certificate, which is a final determination appealable under section 5717.02 of the Revised Code.

Sec. 5709.26. When an ~~air or noise pollution control~~ exempt facility certificate is revoked ~~because obtained by fraud or misrepresentation or~~ modified for the reason stated in division (C)(1) of section 5709.22 of the Revised Code, all taxes ~~which that~~ would have been payable had no certificate been issued shall be assessed with ~~maximum~~ penalties and interest prescribed by law applicable thereto dating to when the exemption was first allowed. Notwithstanding any other time limitations imposed by law, if the certificate is revoked or modified under division (C)(2), (3), or (4) of section 5709.22 of the Revised Code, all taxes that would have been payable had no certificate existed as of the first day of January of the calendar year in which the certificate was revoked or modified are subject to

assessment.

Sec. 5709.27. In the event of the sale, lease, or other transfer of an ~~air or noise pollution control~~ exempt facility, not involving a different location or use, the holder of an ~~air or noise pollution control~~ the exempt facility certificate ~~for such facility may~~ shall transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on ~~such~~ the facility. The transferee shall become the holder of the certificate and shall have all the rights to exemption from taxes ~~which were~~ granted to the former holder or holders, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall promptly give written notice of the effective date of the transfer, together with a copy of the instrument of transfer, to the tax commissioner and the county auditor of the county in which the facility is located. Upon request, the commissioner may provide the transferee with any information the commissioner possesses related to the issuance of the exempt facility certificate.

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area or in a city designated as an urban cluster in a rural statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 1990, decreased by at least ten per cent between the years 1970 and 1990;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three

hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility

that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

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

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school

district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at

sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a central city of a metropolitan statistical area, or in a city designated as an urban cluster in a rural statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby

certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to this division applies to

inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent. For the purpose of obtaining such approval, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the

legislative authority.

(2) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before ~~June 30, 2004~~ October 15, 2009, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division

(B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this division, if the legislative authority revokes its designation of a zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the

value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise

at the completion of the internship.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code. Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before ~~June 30, 2004~~ October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the

enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed ten, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion

is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent. For the purpose of obtaining such approval, the board of commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of commissioners not later than fourteen days prior to the date stipulated by the board of commissioners as the date upon which approval of the agreement is to be formally considered by the board of commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before ~~June 30, 2004~~ October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this paragraph, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives

offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area or designated as an urban cluster in a rural statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3)(a) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of

the Revised Code.

(b) The legislative authority of a city designated as an urban cluster in a rural statistical area that has, pursuant to this section, as amended by H.B. 95 of the 125th general assembly, designated one or more areas in the city as a proposed enterprise zone, shall not enter into an agreement under this section unless it has petitioned the director and the director has certified the proposed enterprise zone under division (A)(3)(a) of this section.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division

(B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 15, 2009, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.64. (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, it may apply, on or before the thirtieth day of April of that year, to the director of development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility, at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) JPTA eligible employees who had resided at least six months in the

county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the municipal corporation during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of development shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a

zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review, investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in

which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.

Sec. 5711.02. Except as otherwise provided by section 5711.13 of the Revised Code, each year, beginning in tax year 2004, each taxpayer having taxable personal property with an aggregate taxable value in excess of ten thousand dollars shall make a return, annually, to the county auditor of each county in which any taxable property, which the taxpayer must return, is required by this chapter to be listed and. The taxpayer shall truly and correctly list therein on the return all taxable property so required to be listed, including property exempt under division (C)(3) of section 5709.01 of the Revised Code. Such returns shall be made on the blanks prescribed by the tax commissioner, which the county auditor shall supply at his the auditor's office along with blanks of the kind required for the county supplemental return required by section 5711.131 of the Revised Code for the use of taxpayers. The county auditor shall mail or distribute such blanks prior to the fifteenth day of February to all persons known to him the auditor to be taxpayers and to all persons to whom the commissioner may direct blanks of either type to be mailed or distributed, and he. The county auditor may place listing and county supplemental blanks at convenient places in his the county. The failure of a taxpayer to receive or procure blanks shall not excuse him the taxpayer from making any return or county supplemental

return. The individual required to make the return shall furnish all statements and documents, give all information required, answer all questions asked on the required blanks, and subscribe to the truth and correctness of all matters contained therein.

Sec. 5711.13. A Beginning in tax year 2004, each taxpayer having taxable property with an aggregate taxable value in excess of ten thousand dollars and required to be listed in more than one county shall make a combined return to the tax commissioner listing all its taxable property in this state, in conformity with sections 5711.01 to 5711.36 of the Revised Code, including property exempt under division (C)(3) of section 5709.01 of the Revised Code, but ~~the taxpayer~~ shall not assign its property of the kinds mentioned in section 5709.02 of the Revised Code to any particular taxing district or county. The tax commissioner shall assess the personal property of such taxpayer in the several taxing districts in which it is required by to be assessed under sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ and shall issue assessment certificates therefor to the proper county auditors at the time and in the manner required by section 5711.25 of the Revised Code. All other property of such taxpayer required to be so listed shall be entered on the intangible property tax list in the office of the treasurer of state, and ~~taxed~~ shall be subject to taxation under section 5707.03 of the Revised Code. The commissioner shall assess all other property of each such taxpayer and, on or before the second Monday of August annually, shall certify the total value or amount of each kind thereof to the treasurer of state, who shall enter the value or amount on the intangible property tax list in ~~his~~ the treasurer of state's office in the manner provided in sections 5725.01 to 5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the Revised Code shall apply to and govern such taxpayer, its proper officers and representatives, the commissioner, and the county auditor as to all proceedings in the assessment of the property of such taxpayer.

Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding for the full calendar year next preceding the date of listing, except shares of

stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the year immediately succeeding their issuance. If such shares bear dividends the first calendar year after their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, it shall be deemed that the nondelinquent intangible property tax pursuant to division (A) of section 5707.04 of the Revised Code was paid on those dividends paid that first calendar year after the issuance of the shares.

(B)(1) Boilers, machinery, equipment, and personal property the true value of which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)(a), (b), and (c) of this section.

(a) Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate in division (F) of this section;

(b) Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(c) Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

(2) Personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is

required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

(C)(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is not used in business in this state for property tax purposes.

(D)(1) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product described in division (D)(1) of this section is not used in business in this state for property tax purposes.

(4) As used in division (D) of this section:

(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;

(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.

(E) Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (A) of section 5711.16 of the Revised Code, except property described in division (C) or (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at the rate of twenty-five per cent of its true value in money until reduced to zero in accordance with the following schedule:

(1) Beginning in tax year 2002 and for each of tax years 2003, and 2004, ~~2005, and 2006~~, subtract one percentage point from the rate at which the property was required to be listed and assessed in the preceding year, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible

personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year. ~~For purposes of this division, total statewide collection of tangible personal property taxes excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code.~~

(2) ~~In tax year 2007, the assessment rate shall be the lesser of twenty-four per cent or one percentage point less than the rate at which property was required to be listed and assessed the preceding year. Each tax year thereafter years 2005 and 2006, the assessment rate shall be reduced by one two percentage point until it equals zero per cent not later than tax year 2031 points, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

(3) For tax year 2007 and each tax year thereafter, the assessment rate shall be reduced by two percentage points. During and after the tax year that the assessment rate equals zero, the property described in division (E) of this section shall not be listed for taxation.

Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code.

(F) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate of twenty-five per cent of its true value in money.

Sec. 5711.27. No taxpayer shall fail to make a return within the time prescribed by law, or as extended pursuant to section 5711.04 of the Revised Code, nor fail to list in a return or disclose on an accompanying balance sheet or in other information filed with the return any item of taxable property ~~which he the taxpayer is required by to list in the return under sections 5711.01 to 5711.36 of the Revised Code, to list therein.~~

If any taxpayer ~~does so fail the following shall apply:~~

(A) ~~In the case of a taxpayer who fails to make a timely return, the~~

assessor shall add to the taxpayer's assessment as a penalty, one-half of the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code. If the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code is located in more than one taxing district, the penalty assessment shall be applied among taxing districts as if only five thousand dollars, or one-half of the taxpayer's taxable valuation, whichever is less, ~~had been exempt from taxation under such division.~~

~~(B) In the case of a taxpayer who fails to make a timely return, or fails to list or disclose any item he the taxpayer is required to return, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list, or disclose and to any amount added under division (A) of this section, a penalty of up to fifty per cent thereof of the assessment;~~ but if such taxpayer makes, within sixty days after the expiration of the time prescribed by such sections, a return or an amended or supplementary return and lists therein or discloses on an accompanying balance sheet or in other information filed with the return all items of taxable property ~~which he the taxpayer~~ is required by such sections to list, and in all cases in which the taxpayer's only default is ~~his the~~ failure to pay the amounts specified in section 5719.02 of the Revised Code within the time therein specified, such penalty shall be five per cent of the assessment, and, if the assessment certificate has been issued, an amended assessment certificate shall be issued and substituted therefor.

~~Either or both of the penalties~~ The penalty provided in this section may be abated in whole or in part by the assessor when it is shown that such failure is due to reasonable cause. The penalty assessment shall be entered on the proper tax list and duplicate, and taxes shall be levied thereon the same as on the assessment itself.

~~If any taxpayer does so fail with respect to a return required to be filed for tax year 1982 or any prior year, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list or disclose in addition to the penalties provided by law, an additional charge at the rate of one-half of one per cent per month from the date such property should have been returned or disclosed until the same is assessed, provided that said additional charge shall not be added to an assessment for any period of time in excess of ten years previous to the date of the assessment.~~

A fiduciary against whom a penalty assessment is made shall be personally liable for the amount of taxes levied in respect to such penalty assessment and any additional charge, and in case of fraud or intent to evade

taxes, such fiduciary shall have no right of reimbursement against the property held by ~~him~~ the fiduciary as such fiduciary nor against the person for whose benefit the same is held.

Sec. 5711.33. (A)(1) When a county treasurer receives a certificate from a county auditor pursuant to division (A) of section 5711.32 of the Revised Code charging the treasurer with the collection of an amount of taxes due as the result of a deficiency assessment, the treasurer shall immediately prepare and mail a tax bill to the taxpayer owing such tax. The tax bill shall contain the name of the taxpayer; the taxable value, tax rate, and taxes charged for each year being assessed; the total amount of taxes due; the final date payment may be made without additional penalty; and any other information the treasurer considers pertinent or necessary. Taxes due and payable as a result of a deficiency assessment, less any amount specifically excepted from collection under division (B) of section 5711.32 of the Revised Code, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of issuance of the certificate by the county auditor. The balance of taxes found due and payable after a final determination by the tax commissioner or a final judgment of the board of tax appeals or any court to which such final judgment may be appealed, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of certification by the auditor to the treasurer pursuant to division (C) of section 5711.32 of the Revised Code of such final determination or judgment. Such final dates for payment shall be determined and exhibited on the tax bill by the treasurer.

(2) If, on or before the sixtieth day following the date of a certification of a deficiency assessment under division (A) of section 5711.32 of the Revised Code or of a certification of a final determination or judgment under division (C) of section 5711.32 of the Revised Code, the taxpayer pays the full amount of taxes and interest due at the time of the receipt of certification with respect to that assessment, determination, or judgment, no interest shall accrue or be charged with respect to that assessment, determination, or judgment for the period that begins on the first day of the month in which the certification is made and that ends on the last day of the month preceding the month in which such sixtieth day occurs.

(B) When the taxes charged, as mentioned in division (A) of this section, are not paid within the time prescribed by such division, a penalty of ten per cent of the amount due and unpaid and interest for the period described in division (A)(2) of this section shall accrue at the time the treasurer closes the treasurer's office for business on the last day so

prescribed, but if the taxes are paid within ten days subsequent to the last day prescribed, the treasurer shall waive the collection of and the auditor shall remit one-half of the penalty. The treasurer shall not thereafter accept less than the full amount of taxes and penalty except as otherwise authorized by law. Such penalty shall be distributed in the same manner and at the same time as the tax upon which it has accrued. The whole amount collected shall be included in the next succeeding settlement of appropriate taxes.

(C) When the taxes charged, as mentioned in division (A) of this section, remain unpaid after the final date for payment prescribed by such division, such charges shall be deemed to be delinquent taxes. The county auditor shall cause such charges, including the penalty that has accrued pursuant to this section, to be added to the delinquent tax duplicate in accordance with section 5719.04 of the Revised Code.

(D) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under division (B) of this section or division (C) of section 5719.03 of the Revised Code for the late payment of taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates ~~to the satisfaction of the auditor~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) In cases other than those described in divisions (D)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(E) The taxpayer, upon application within sixty days after the mailing of the county auditor's decision, may request the tax commissioner to review

the denial of the remission of a penalty by the county auditor. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the taxpayer and to the county treasurer and county auditor, who shall correct the tax list and duplicate accordingly. The commissioner ~~shall~~ may issue orders and instructions for the uniform implementation of this section by all county auditors and county treasurers, and such orders and instructions shall be followed by such officers.

Sec. 5713.07. The county auditor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list pertinent descriptions of all burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, real property used exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, ~~and~~ public buildings and property used exclusively for any public purpose, and any other property, with the lot or tract of land on which such house, institution, ~~or~~ public building, or other property is situated, and which ~~are exempt~~ have been exempted from taxation by either the tax commissioner under section 5715.27 of the Revised Code or by the housing officer under section 3735.67 of the Revised Code. ~~He~~ The auditor shall value such houses, buildings, property, and lots and tracts of land at their taxable value in the same manner as ~~he~~ the auditor is required to value other real property, designating in each case the township, municipal corporation, and number of the school district, or the name or designation of the school, religious society, or institution to which each house, lot, or tract belongs. If such property is held and used for other public purposes, ~~he~~ the auditor shall state by whom or how it is held.

Sec. 5713.08. (A) The county auditor shall make a list of all real and personal property in the auditor's county, including money, credits, and investments in bonds, stocks, or otherwise, which is exempted from taxation. Such list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which such exemption has been granted. It shall be corrected annually by adding thereto the items of property which have been exempted during the year, and by striking therefrom the items which in the opinion of the auditor have lost their right of exemption and which have been reentered on the taxable list. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax

commissioner as is provided for in section 5715.27 of the Revised Code, ~~but when or without the consent of the housing officer under section 3735.67 of the Revised Code.~~ When any personal property or endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not necessary to obtain the commissioner's consent to the exemption of additional property or investments of the same kind belonging to the same institution, but such property shall appear on the abstract filed annually with the commissioner. The commissioner may revise at any time the list in every county so that no property is improperly or illegally exempted from taxation. The auditor shall follow the orders of the commissioner given under this section. An abstract of such list shall be filed annually with the commissioner, on a form approved by the commissioner, and a copy thereof shall be kept on file in the office of each auditor for public inspection.

The commissioner shall not consider an application for exemption of property unless the application has attached thereto a certificate executed by the county treasurer certifying one of the following:

(1) That all taxes, assessments, interest, and penalties levied and assessed against the property sought to be exempted have been paid in full to the date upon which the application for exemption is filed, except for such taxes, interest, and penalties that may be remitted under division (B) of this section;

(2) That the applicant has entered into a valid delinquent tax contract with the county treasurer pursuant to division (A) of section 323.31 of the Revised Code to pay all of the delinquent taxes, assessments, interest, and penalties charged against the property, except for such taxes, interest, and penalties that may be remitted under division (B) of this section. If the auditor receives notice under section 323.31 of the Revised Code that such a written delinquent tax contract has become void, the auditor shall strike such property from the list of exempted property and reenter such property on the taxable list. If property is removed from the exempt list because a written delinquent tax contract has become void, current taxes shall first be extended against that property on the general tax list and duplicate of real and public utility property for the tax year in which the auditor receives the notice required by division (A) of section 323.31 of the Revised Code that the delinquent tax contract has become void or, if that notice is not timely made, for the tax year in which falls the latest date by which the treasurer is required by such section to give such notice. A county auditor shall not remove from any tax list and duplicate the amount of any unpaid delinquent taxes, assessments, interest, or penalties owed on property that is placed on

the exempt list pursuant to this division.

(3) That a tax certificate has been issued under section 5721.32 or 5721.33 of the Revised Code with respect to the property that is the subject of the application, and the tax certificate is outstanding.

(B) Any taxes, interest, and penalties which have become a lien after the property was first used for the exempt purpose, but in no case prior to the date of acquisition of the title to the property by the applicant, may be remitted by the commissioner, except as is provided in division (A) of section 5713.081 of the Revised Code.

(C) Real property acquired by the state in fee simple is exempt from taxation from the date of acquisition of title or date of possession, whichever is the earlier date, provided that all taxes, interest, and penalties as provided in the apportionment provisions of section 319.20 of the Revised Code have been paid to the date of acquisition of title or date of possession by the state, whichever is earlier. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the year in which the property is acquired, shall be remitted by the county auditor for the balance of the year from date of acquisition of title or date of possession, whichever is earlier. This section shall not be construed to authorize the exemption of such property from taxation or the remission of taxes, interest, and penalties thereon until all private use has terminated.

Sec. 5713.081. (A) No application for real property tax exemption and tax remission shall be filed with, or considered by, the tax commissioner in which tax remission is requested for more than three tax years, and the commissioner shall not remit more than three years' ~~delinquent~~ taxes, penalties, and interest.

(B) All taxes, penalties, and interest, that have been delinquent for more than three years, appearing on the general tax list and duplicate of real property which have been levied and assessed against parcels of real property owned by the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership, shall be collected by the county auditor of the county where the real property is located. Such ~~official~~ auditor shall deduct from each distribution made by ~~him~~ the auditor, the amount necessary to pay the tax delinquency from any revenues or funds to the credit of the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership thereof, passing under ~~his~~ the auditor's control, or which come into ~~his~~ the auditor's possession, and such deductions shall be made on a continuing basis until all delinquent taxes, penalties, and interest noted in this section have been paid.

(C) As used in division (B) of this section, "political subdivision" includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.

Sec. 5713.082. (A) Whenever the county auditor reenters an item of property to the tax list as provided in section 5713.08 of the Revised Code and there has been no conveyance of the property between separate entities, the auditor shall send notice by certified mail to the owner of the property that it is now subject to property taxation as a result of such action. The auditor shall send the notice at the same time ~~he~~ the auditor certifies the real property tax duplicate to the county treasurer. The notice shall describe the property and indicate that the owner may reapply for tax exemption by filing an application for exemption as provided in section 5715.27 of the Revised Code, and that failure to file such an application within the proper time period will result in the owner having to pay the taxes even if the property continued to be used for an exempt purpose.

(B) If the auditor failed to send the notice required by this section, and if the owner of the property subsequently files an application for tax exemption for the property for the current tax year, the tax commissioner may grant exemption to the property, and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties for each prior year since the property was reentered on the tax list notwithstanding the provisions of division (A) of section 5713.081 of the Revised Code.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under

section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use;

(4) Tracts, lots, or parcels of land, or portions thereof ~~which~~ that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted

exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes ~~which~~ that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate, or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

Sec. 5715.27. (A) ~~The~~ Except as provided in section 3735.67 of the Revised Code, the owner of any property may file an application with the tax commissioner, on forms prescribed by the commissioner, requesting that such property be exempted from taxation and that ~~unpaid~~ taxes and penalties be remitted as provided in division (B) of section 5713.08 of the Revised Code.

(B) The board of education of any school district may request the tax commissioner to provide it with notification of applications for exemption from taxation for property located within that district. If so requested, the commissioner shall send to the board for the quarters ending on the last day of March, June, September, and December of each year, reports that contain sufficient information to enable the board to identify each property that is the subject of an exemption application, including, but not limited to, the name of the property owner or applicant, the address of the property, and the auditor's parcel number. The commissioner shall mail the reports on or about the fifteenth day of the month following the end of the quarter.

(C) A board of education that has requested notification under division (B) of this section may, with respect to any application for exemption of property located in the district and included in the commissioner's most recent report provided under that division, file a statement with the

commissioner and with the applicant indicating its intent to submit evidence and participate in any hearing on the application. The statements shall be filed prior to the first day of the third month following the end of the quarter in which that application was docketed by the commissioner. A statement filed in compliance with this division entitles the district to submit evidence and to participate in any hearing on the property and makes the district a party for purposes of sections 5717.02 to 5717.04 of the Revised Code in any appeal of the commissioner's decision to the board of tax appeals.

(D) The commissioner shall not hold a hearing on or grant or deny an application for exemption of property in a school district whose board of education has requested notification under division (B) of this section until the end of the period within which the board may submit a statement with respect to that application under division (C) of this section. The commissioner may act upon an application at any time prior to that date upon receipt of a written waiver from each such board of education, or, in the case of exemptions authorized by section 725.02, 1728.10, ~~3735.67~~, 5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request of the property owner. Failure of a board of education to receive the report required in division (B) of this section shall not void an action of the commissioner with respect to any application. The commissioner may extend the time for filing a statement under division (C) of this section.

(E) A complaint may also be filed with the commissioner by any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision against the continued exemption of any property granted exemption by the commissioner under this section.

(F) An application for exemption and a complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which exemption is requested or for which the liability of ~~any~~ the property to taxation in that year is requested. The commissioner shall consider such application or complaint in accordance with procedures established by the commissioner, determine whether the property is subject to taxation or exempt therefrom, and certify the commissioner's findings to the auditor, who shall correct the tax list and duplicate accordingly. If a tax certificate has been sold under section 5721.32 or 5721.33 of the Revised Code with respect to property for which an exemption has been requested, the tax commissioner shall also certify the findings to the county treasurer of the county in which the property is located.

(G) Applications and complaints, and documents of any kind related to applications and complaints, filed with the tax commissioner under this

section, are public records within the meaning of section 149.43 of the Revised Code.

(H) If the commissioner determines that the use of property or other facts relevant to the taxability of property that is the subject of an application for exemption or a complaint under this section has changed while the application or complaint was pending, the commissioner may make the determination under division (F) of this section separately for each tax year beginning with the year in which the application or complaint was filed or the year for which remission of ~~unpaid~~ taxes under division (B) of section 5713.08 of the Revised Code was requested, and including each subsequent tax year during which the application or complaint is pending before the commissioner.

Sec. 5715.39. (A) The tax commissioner may remit real property taxes, manufactured home taxes, penalties, and interest found by the commissioner to have been illegally assessed. The commissioner also may remit any penalty charged against any real property or manufactured or mobile home that was the subject of an application for exemption from taxation under section 5715.27 of the Revised Code if the commissioner determines that the applicant requested such exemption in good faith. The commissioner shall include notice of the remission in the commissioner's certification to the county auditor required under that section.

(B) The ~~commissioner, on application by a taxpayer~~ county auditor, upon consultation with the county treasurer, shall remit a penalty for late payment of any real property taxes or manufactured home taxes when:

~~(A)~~(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

~~(B)~~(2) In cases other than those described in division ~~(A)~~(B)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

~~(C)~~(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

~~(D)~~(4) The taxpayer demonstrates ~~to the satisfaction of the commissioner~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter

postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(C) The board of revision shall remit a penalty for late payment of any real property taxes or manufactured homes taxes if, in cases other than those described in division (B)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(D) The taxpayer, upon application within sixty days after the mailing of the county auditor's or board of revision's decision, may request the tax commissioner to review the denial of the remission of a penalty by the auditor or board. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the taxpayer, to the county treasurer, and to the county auditor, who shall correct the tax list and duplicate accordingly. The commissioner may issue orders and instructions for the uniform implementation of this section by all county boards of revision, county auditors, and county treasurers, and such orders and instructions shall be followed by such officers and boards.

(E) This section shall not provide to the taxpayer any remedy with respect to any matter that the taxpayer may be authorized to complain of under section 4503.06, 5715.19, 5717.02, and or 5727.47 of the Revised Code.

(F) Applications for remission, and documents of any kind related to those applications, filed with the tax commissioner under this section, are public records within the meaning of section 149.43 of the Revised Code, unless otherwise excepted under that section.

Sec. 5717.011. (A) As used in this chapter, "tax administrator" has the same meaning as in section 718.01 of the Revised Code.

(B) Appeals from a municipal board of appeal created under section 718.11 of the Revised Code may be taken by the taxpayer or the tax administrator to the board of tax appeals or may be taken by the taxpayer or the tax administrator to a court of common pleas as otherwise provided by law. If the taxpayer or the tax administrator elects to make an appeal to the board of tax appeals or court of common pleas, the appeal shall be taken by the filing of a notice of appeal with the board of tax appeals or court of common pleas, the municipal board of appeal, and the opposing party. The notice of appeal shall be filed within sixty days after the day the appellant

receives notice of the decision issued under section 718.11 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the decision issued under section 718.11 of the Revised Code and shall specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) Upon the filing of a notice of appeal with the board of tax appeals, the municipal board of appeal shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper.

(D) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

Sec. 5717.03. (A) A decision of the board of tax appeals on an appeal filed with it pursuant to section 5717.01, 5717.011, or 5717.02 of the Revised Code shall be entered of record on the journal together with the date when the order is filed with the secretary for journalization.

(B) In case of an appeal from a decision of a county board of revision, the board of tax appeals shall determine the taxable value of the property whose valuation or assessment by the county board of revision is complained of, or in the event the complaint and appeal is against a discriminatory valuation, shall determine a valuation which shall correct such discrimination, and shall determine the liability of the property for taxation, if that question is in issue, and its the board of tax appeals' decision and the date when it was filed with the secretary for journalization

shall be certified by ~~it~~ the board by certified mail to all persons who were parties to the appeal before ~~it~~ the board, to the person in whose name the property is listed, or sought to be listed, if such person is not a party to the appeal, to the county auditor of the county in which the property involved in the appeal is located, and to the tax commissioner.

In correcting a discriminatory valuation, the board of tax appeals shall increase or decrease the value of the property whose valuation or assessment by the county board of revision is complained of by a per cent or amount which will cause such property to be listed and valued for taxation by an equal and uniform rule.

(C) In the case of an appeal from a review, redetermination, or correction of a tax assessment, valuation, determination, finding, computation, or order of the tax commissioner, the order of the board of tax appeals and the date of the entry thereof upon its journal shall be certified by ~~it~~ the board by certified mail to all persons who were parties to the appeal before ~~it~~ the board, the person in whose name the property is listed or sought to be listed, if the decision determines the valuation or liability of property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or redetermination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board ~~its~~, the board's order and the date when ~~it~~ the order was filed by the secretary for journalization shall be certified by ~~it~~ the board by certified mail to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by ~~it~~ the board, and ~~its~~ the board's decision shall become final and conclusive for the

current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, ~~the board~~ may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order, ~~which~~. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

Sec. 5719.07. Subject to the rules prescribed by the tax commissioner, a county treasurer charged with the collection of delinquent taxes may issue a certificate of release of the lien provided for in section 5719.04 of the Revised Code if the amount secured thereby has been paid or omitted from the delinquent tax list and duplicate pursuant to section 5719.06 of the Revised Code. The treasurer shall issue a certificate of partial discharge of any part of the real property subject to the lien ~~if he finds~~ after finding that the value of the part of the property remaining subject to the lien is at least double the amount of the delinquent taxes and all prior liens upon such real property. Such certificate shall be filed and recorded with the county recorder of the county in which the notice of lien has been filed, for which recording the recorder shall charge a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5725.19. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a domestic insurance company under section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5725.18 of the Revised Code, the company may receive a refund equal to seventy-five per cent of such excess. If the

company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the ~~amount~~ amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due under section 5725.18 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A)(1) Except as provided in division (A)(2) of this section, fifty per cent in the case of a rural electric company;

(2) For tax year 2001 and thereafter, fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter, and ~~eighty-eight per cent~~ the following for all other taxable property;:

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;

(4) For tax year 2007 and thereafter, twenty-five per cent.

~~(C)(1) Except as provided in division (C)(2) of this section, eighty-eight per cent in the case of a natural gas company;~~

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five per cent in the case of a natural gas company.

(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;

(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty-eight per cent for all its other taxable property;

(2) For tax year 2001 and thereafter, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment

and eighty-eight per cent for all such other taxable property until January 1, 2002.

(F) Twenty-five per cent in the case of an interexchange telecommunications company;

(G) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.30. (A) Except as provided in divisions (B) ~~and~~, (C), and (D) of this section, each public utility, except railroad companies, shall be subject to an annual excise tax, as provided by sections 5727.31 to 5727.62 of the Revised Code, for the privilege of owning property in this state or doing business in this state during the twelve-month period next succeeding the period upon which the tax is based. The tax shall be imposed against each such public utility that, on the first day of such twelve-month period, owns property in this state or is doing business in this state, and the lien for the tax, including any penalties and interest accruing thereon, shall attach on such day to the property of the public utility in this state.

(B) An electric company's or a rural electric company's gross receipts received after April 30, 2001, are not subject to the annual excise tax imposed by this section.

(C) A natural gas company's gross receipts received after April 30, 2000, are not subject to the annual excise tax imposed by this section.

(D) A telephone company's gross receipts derived from amounts billed to customers after June 30, 2004, are not subject to the annual excise tax imposed by this section. Notwithstanding any other provision of law, gross receipts derived from amounts billed by a telephone company to customers prior to July 1, 2004, shall be included in the telephone company's annual statement filed on or before August 1, 2004, which shall be the last statement or report filed under section 5727.31 of the Revised Code by a telephone company. A telephone company shall not deduct from its gross receipts included in that last statement any receipts it was unable to collect from its customers for the period of July 1, 2003, to June 30, 2004.

Sec. 5727.32. (A) For the purpose of the tax imposed by section 5727.30 of the Revised Code, the statement required by section 5727.31 of the Revised Code shall contain:

- (1) The name of the company;
- (2) The nature of the company, whether a person, association, or corporation, and under the laws of what state or country organized;
- (3) The location of its principal office;
- (4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager;
- (5) The name and post-office address of the chief officer or managing

agent of the company in this state;

(6) The amount of the excise taxes paid or to be paid with the reports made during the current calendar year as provided by section 5727.31 of the Revised Code;

(7) In the case of telegraph ~~and telephone~~ companies:

(a) The gross receipts from all sources, whether messages, telephone tolls, rentals, or otherwise, for business done within this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:

(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;

(ii) The receipts of amounts billed on behalf of other entities;

(iii) ~~The receipts from sales to other telephone companies for resale;~~

(iv) ~~The receipts from sales to providers of telecommunications service for resale, receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, and receipts from private communications service.~~

~~As used in this division, "receipts from sales to other telephone companies for resale" and "receipts from sales to providers of telecommunications service for resale" include but are not limited to, receipts of carrier access charges. "Carrier access charges" means compensation paid to the taxpayer telephone company by another telephone company or by a provider of telecommunications service for the use of the taxpayer's facilities to originate or terminate telephone calls or telecommunications service.~~

(b) The total gross receipts for such period from business done within this state.

(8) In the case of all public utilities subject to the tax imposed by section 5727.30 of the Revised Code, except telegraph ~~and telephone~~ companies:

(a) The gross receipts of the company, actually received, from all sources for business done within this state for the year next preceding the first day of May, including the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding ~~all~~ both of the following:

(i) Receipts from interstate business or business done for the federal

government;

(ii) Receipts from sales to another public utility for resale, provided such other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code;

(iii) ~~Receipts from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~

(iv) ~~Receipts of an electric company, derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:~~

~~(I) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or in part during that period by an electric company.~~

~~(II) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than twenty per cent of the production facility and the rights to not less than twenty per cent of the production of that facility; and the person, or a successor or assign of the person, engaged primarily in a business other than providing electricity to others.~~

(v) Receipts of a combined company derived from operating as a natural gas company that is subject to the tax imposed by section 5727.24 of the Revised Code.

(b) The total gross receipts of the company, for the year next preceding the first day of May, in this state from business done within the state.

(B) The reports required by section 5727.31 of the Revised Code shall contain:

(1) The name and principal mailing address of the company;

(2) The total amount of the gross receipts excise taxes charged or levied as based upon its last preceding annual statement filed prior to the first day of January of the year in which such report is filed;

(3) The amount of the excise taxes due with the report as provided by section 5727.31 of the Revised Code.

Sec. 5727.33. (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts

actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), and (D), and (E) of this section. The gross receipts for the tax year of each telegraph ~~and telephone~~ company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.

(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:

- (1) All receipts derived wholly from interstate business;
- (2) All receipts derived wholly from business done for or with the federal government;
- ~~(3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~
- (4) All receipts from the sale of merchandise;
- ~~(5)~~(4) All receipts from sales to other public utilities, except railroad, and telegraph, and telephone companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.

(C) In ascertaining and determining the gross receipts of a telephone company, ~~the following gross receipts are excluded:~~

- ~~(1) Receipts of amounts billed on behalf of other entities;~~
- (2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;
- ~~(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred type service;~~
- (4) Receipts from private communications service as described in division ~~(AA)(2)~~ of section 5739.01 of the Revised Code;
- ~~(5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.~~

(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of electricity and other

services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived are excluded. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets ~~both of the following conditions:~~

~~(1) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or part during that period by an electric company.~~

~~(2) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than a twenty per cent ownership of the production facility and the rights to not less than twenty per cent of the production of that facility.~~

~~(E)(C)~~ In ascertaining and determining the gross receipts of a natural gas company, receipts billed on behalf of other entities are excluded. The tax imposed by section 5729.811 of the Revised Code, along with transportation and billing and collection fees charged to other entities, shall be included in the gross receipts of a natural gas company.

~~(F)(D)~~ In ascertaining and determining the gross receipts of a combined company subject to the tax imposed by section 5727.30 of the Revised Code, all receipts derived from operating as a natural gas company that are subject to the tax imposed by section 5727.24 of the Revised Code are excluded.

~~(G)(E)~~ Except as provided in division ~~(H)(F)~~ of this section, the amount ascertained by the commissioner under this section, less a deduction of twenty-five thousand dollars, shall be the taxable gross receipts of such companies for business done within this state for that year.

~~(H)(F)~~ The amount ascertained under this section, less the following deduction, shall be the taxable gross receipts of a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code for business done within this state:

(1) For a natural gas company that files quarterly returns of the tax imposed by section 5727.24 of the Revised Code, six thousand two hundred fifty dollars for each quarterly return;

(2) For a natural gas company that files an annual return of the tax imposed by section 5727.24 of the Revised Code, twenty-five thousand dollars for each annual return;

(3) For a combined company, twenty-five thousand dollars on the

annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

Sec. 5727.56. Any public utility whose articles of incorporation or license certificate to do or transact business in this state has expired or has been canceled or revoked by the secretary of state, as provided by law for failure to make any report or return or to pay any tax or fee, upon payment to the secretary of state of any additional fees and penalties required to be paid to ~~him~~ the secretary of state, and upon the filing with the secretary of state of a certificate from the tax commissioner that it has complied with all the requirements of law as to franchise or excise tax reports and paid all franchise or excise taxes, fees, or penalties due thereon for every year of its delinquency, and upon the payment to the secretary of state of an additional fee of ten dollars, shall be reinstated and again entitled to exercise its rights, privileges, and franchises in this state, and the secretary of state shall cancel the entry of cancellation or expiration to exercise its rights, privileges, and franchises. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation or expiration of its license to do business, and it appears that articles of incorporation or license certificate have been issued to a corporation of the same or similar name, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the county recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code.

If a domestic public utility applying for reinstatement has not previously designated an agent upon whom process may be served as required by section 1701.07 of the Revised Code, such public utility shall at the time of reinstatement and as a prerequisite thereto designate an agent in accordance with such section.

Any officer, shareholder, creditor, or receiver of any such public utility may at any time take all steps required by this section to effect such reinstatement, and in such case the designation of an agent upon whom process may be served shall not be a prerequisite to the reinstatement of the public utility.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school

district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount determined under division (D) of this section.

(8) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(11) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(13) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) The kilowatt-hour tax receipts fund is hereby created in the state

treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

(1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, shall be credited to the general revenue fund.

(2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code.

(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.

(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section.

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as

follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(3) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, an amount equal to the difference between the amount collected and ninety million dollars shall be transferred from the general revenue fund to each of the funds in divisions (C)(1) and (2) of this section in the same percentages as if that amount had been collected as taxes under section 5727.811 of the Revised Code. The tax commissioner shall certify to the director of budget and management the amounts that shall be transferred under this division.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) ~~and (2)~~ to ~~(3)~~ of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March

1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and

1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) The department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first

and twenty-eighth days of February.

(2) From August 2002 through August 2006, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(3) From February 2007 through August 2016, one-half of the amount calculated for that calendar year under division (B)(3) of this section between the twenty-first and twenty-eighth days of August and of February.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has

expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in August 2002, and ending in February 2017, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of March, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one-half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed-rate levies in excess of twenty thousand dollars, or annual losses from any other fixed-rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.

(H) On the thirty-first day of July of 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised

Code in the case of a joint vocational school district.

If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.

(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(J) If all or a part of the territory of a school district or joint vocational school district is merged with or transferred to another district, the department of education, in consultation with the tax commissioner shall adjust the payments made under this section to each of the districts in proportion to the tax value loss apportioned to the merged or transferred territory.

~~(J)~~(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the

committee shall cease to exist.

The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, for fixed-rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed-rate levy loss certified under division (A) of this section:

YEAR	PERCENTAGE
2002	100%
2003	100%
2004	100%
2005	100%
2006	100%
2007	80%
2008	80%
2009	80%
2010	80%
2011	80%
2012	66.7%
2013	53.4%
2014	40.1%
2015	26.8%
2016	13.5%
2017 and thereafter	0%

(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and

bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to 2016.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy loss determined under division (H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. One-half of the amount certified under those divisions shall be paid between the twenty-first and twenty-eighth days of August and of February. The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Amounts distributed under division (E) of this section shall be credited to the general fund of the local taxing unit that receives them.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no

longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the tax commissioner shall distribute the excess to each county as follows:

(1) One-half shall be distributed to each county in proportion to each county's population.

(2) One-half shall be distributed to each county in the proportion that the amounts determined under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state.

The amounts distributed to each county under this division shall be distributed by the county treasurer to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county.

If, in the opinion of the tax commissioner, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

(F) From fiscal year 2002 through fiscal year 2016, if the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the difference between the total amount to be paid and the amount in the local government property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by

Amended Substitute House Bill No. 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5728.04. (A) It is unlawful for any person to operate a commercial car with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor when operated alone or as part of a commercial tractor combination or commercial tandem on a public highway ~~without~~ under either of the following circumstances:

(1) Without a ~~valid~~ fuel use permit for such commercial car or commercial tractor.

(2) With a suspended or surrendered fuel use permit for such commercial car or commercial tractor.

(B) The judge or magistrate of any court finding any person guilty of unlawfully operating a commercial car or commercial tractor as provided for in this section shall immediately notify the tax commissioner of such violation and shall transmit to the tax commissioner the name and the permanent address of the owner of the commercial car or commercial tractor operated in violation of this section, the registration number, the state of registration, and the certificate of title number of the commercial car or commercial tractor. The commercial car or commercial tractor involved in a violation of division (A)(1) or (2) of this section may be detained until a valid fuel use permit is obtained or reinstated.

Sec. 5728.06. (A) For the following purposes, an excise tax is hereby imposed on the use of motor fuel to operate on the public highways of this state a commercial car with three or more axles operated alone or as part of a commercial tandem, a commercial car with two axles operated as part of a commercial tandem having a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor operated alone or as part of a commercial tractor combination or commercial tandem: to provide revenue for maintaining the state highway system, to widen existing surfaces on such highways, to resurface such

highways, to enable the counties of the state properly to plan for, maintain, and repair their roads, to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing the same, and to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code. The tax is imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code plus an additional tax of three cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ provided that the additional tax of shall be reduced to two cents per gallon of motor fuel used before from July 1, 2004 through June 30, 2005, as determined by the gallons consumed while operated on the public highways of this state. Subject to section 5735.292 of the Revised Code, on and after July 1, 2005, the tax shall be imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code. Payment of the fuel use tax shall be made by the purchase of motor fuel within Ohio of such gallons as is equivalent to the gallons consumed while operating such a motor vehicle on the public highways of this state, or by direct remittance to the treasurer of state with the fuel use tax return filed pursuant to section 5728.08 of the Revised Code.

Any person subject to the tax imposed under this section who purchases motor fuel in this state for use in another state in excess of the amount consumed while operating such motor vehicle on the public highways of this state shall be allowed a credit against the tax imposed by this section or a refund equal to the motor fuel tax paid to this state on such excess. No such credit or refund shall be allowed for taxes paid to any state that imposes a tax on motor fuel purchased or obtained in this state and used on the highways of such other state but does not allow a similar credit or refund for the tax paid to this state on motor fuel purchased or acquired in the other

state and used on the public highways of this state.

The tax commissioner is authorized to determine whether such credits or refunds are available and to prescribe such rules as are required for the purpose of administering this chapter.

(B) Within sixty days after the last day of each month, the tax commissioner shall determine the amount of motor fuel tax allowed as a credit against the tax imposed by this section. The commissioner shall certify the amount to the director of budget and management and the treasurer of state, who shall credit the amount in accordance with section 5728.08 of the Revised Code from current revenue arising from the tax levied by section 5735.05 of the Revised Code.

(C) The owner of each commercial car and commercial tractor subject to sections 5728.01 to 5728.14 of the Revised Code is liable for the payment of the full amount of the taxes imposed by this section.

An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of this section, whoever violates any provision of sections 5728.01 to 5728.14 of the Revised Code, or any rule promulgated by the tax commissioner under the authority of any provision of those sections, for the violation of which no penalty is provided elsewhere, shall be fined not less than twenty-five nor more than one hundred dollars.

(2) Division (A)(1) of this section does not apply to the filing of any false or fraudulent return, application, or permit under section 5728.02, 5728.03, or 5728.08 of the Revised Code. The filing of any false or fraudulent return, application, or permit under any of those sections is a violation of section 2921.13 of the Revised Code.

(B)(1) Whoever violates division (A)(1) of section 5728.04 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates division (A)(2) of section 5728.04 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5729.08. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a foreign insurance company under section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5729.03 of the Revised Code, the company may receive a refund equal to seventy-five per cent of such excess. If the company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due under section 5729.03 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation

is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division

(B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the twenty consecutive taxable years after the taxable year in which the net operating

loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on

which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible

to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain

or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership. ~~The~~

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the ~~add-back~~ add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference

in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (C)(2) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," ~~and~~ "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including

gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(R) "Nonbusiness income" means all income other than business income.

Sec. 5733.05. As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is a financial institution shall be deemed to be the value as calculated in accordance with division (A) of this section. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is not a financial institution shall be deemed to be the values as calculated in accordance with divisions (B) and (C) of this section. Except as otherwise required by this section or section 5733.056 of the Revised Code, the value of a taxpayer's issued and outstanding shares of stock under division (A) or (C) of this section does not include any amount that is treated as a liability under generally accepted accounting principles.

(A) The total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves shall be determined as prescribed by section 5733.056 of the Revised Code for tax years 1998 and thereafter.

(B) The sum of the corporation's net income during the corporation's taxable year, allocated or apportioned to this state as prescribed in divisions (B)(1) and (2) of this section, and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 5733.059, and 5733.0510 of the Revised Code:

(1) The net nonbusiness income allocated or apportioned to this state as provided by section 5733.051 of the Revised Code.

(2) The amount of Ohio apportioned net business income ~~from sources other than those allocated under section 5733.051 of the Revised Code,~~

which shall be ~~determined~~ calculated by multiplying the corporation's net business income by a fraction. The numerator of the fraction is the sum of the following products: the property factor multiplied by twenty, the payroll factor multiplied by twenty, and the sales factor multiplied by sixty. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows, but the numerator and the denominator of the factors shall not include the portion of any property, payroll, and sales otherwise includible in the factors to the extent that the portion relates to, or is used in connection, with the production of nonbusiness income allocated under section 5733.051 of the Revised Code:

(a) The property factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the average value of the corporation's real and tangible personal property owned or rented, and used in the trade or business in this state during the taxable year, and the denominator of which the fraction is the average value of all the corporation's real and tangible personal property owned or rented, and used in the trade or business everywhere during such year. Real and tangible personal property used in the trade or business includes, but is not limited to, real and tangible personal property that the corporation rents, subrents, leases, or subleases to others if the income or loss from such rentals, subrentals, leases, or subleases is business income. There shall be excluded from the numerator and denominator of the ~~property factor~~ fraction the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to that section or former section 6111.31 of the Revised Code; and property used exclusively during the taxable year for qualified research.

(i) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals.

(ii) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the

taxable year, if reasonably required to reflect properly the average value of the corporation's property.

(b) The payroll factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the total amount paid in this state during the taxable year by the corporation for compensation, and the denominator of ~~which the fraction~~ is the total compensation paid everywhere by the corporation during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(i) Compensation means any form of remuneration paid to an employee for personal services.

(ii) Compensation is paid in this state if: (1) the recipient's service is performed entirely within this state, (2) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, (3) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(iii) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(c) Except as provided in section 5733.059 of the Revised Code, the sales factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the total sales in this state by the corporation during the taxable year, and the denominator of ~~which the fraction~~ is the total sales by the corporation everywhere during such year. In determining the numerator and denominator of the ~~sales factor fraction~~, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting corporation owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of

one or more financial institutions, receipts received by the reporting corporation from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of this section and section 5733.03 of the Revised Code, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Except as provided in section 5733.059 of the Revised Code, sales, other than sales of tangible personal property, are in this state if either:

- (i) The income-producing activity is performed solely in this state;
- (ii) The income-producing activity is performed both within and without this state and a greater proportion of the seller's income-producing activity is performed within this state than in any other state, based on costs of performance.

(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, a timely filed petition for reassessment, or a timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:

- (i) Separate accounting;
- (ii) The exclusion of any one or more of the factors;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's allocated or apportioned base in this state.

An alternative method will be effective only with approval by the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(e) The tax commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation's base, that apply to corporations engaged in

telecommunications.

~~(C)(1) Subject to divisions (C)(2) and (3) of this section, the~~ The total value, as shown on the books of each corporation that is not a qualified holding company, of the net book value of a the corporation's assets less the net carrying value of its liabilities, and excluding from the corporation's assets land devoted exclusively to agricultural use as of the first Monday of June in the corporation's taxable year as determined by the county auditor of the county in which the land is located pursuant to section 5713.31 of the Revised Code, and making any adjustment required by division (D) of this section. For the purposes of determining that total value, any reserves shown on the corporation's books shall be considered liabilities or contra assets, as the case may be, except for any reserves that are deemed appropriations of retained earnings under generally accepted accounting principles.

~~(2)(a)~~ The base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under division (C)(1) of this section by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) and (iii) of this section, and with regard to section 5733.052 of the Revised Code, but substituting "net worth" for "net income" wherever "net income" appears in division (B)(2)(c) in this section. For purposes of division (C)(2) of this section, the numerator and denominator of each of the fractions shall include the portion of any real and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with the production of, net nonbusiness income allocated under section 5733.051 of the Revised Code. Nothing in this division shall allow any amount to be included in the numerator or denominator more than once.

(D)(1) If, on the last day of the taxpayer's taxable year preceding the tax year, the taxpayer is a related member to a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year, or if, on the last day of the taxpayer's taxable year preceding the tax year, a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year is a related member to the taxpayer, then the taxpayer's total value for the purposes of division (C) of this section shall be adjusted by the qualifying amount. Except as otherwise provided under division (C)(2)(b)(D)(2) of this section, "qualifying amount" means the amount that, when added to the taxpayer's total value, and when subtracted from the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, or when subtracted from the taxpayer's total value and when added to the net carrying value of the

taxpayer's liabilities computed without regard to division ~~(C)(2)(D)~~ of this section, results in the taxpayer's debt-to-equity ratio equaling the debt-to-equity ratio of the qualifying controlled group on the last day of the taxable year ending prior to the first day of the tax year computed on a consolidated basis in accordance with general accepted accounting principles. For the purposes of division ~~(C)(2)(a)(D)(1)~~ of this section, the corporation's total value, after the adjustment required by that division, shall not exceed the net book value of the corporation's assets.

~~(b)(i)(2)(a)~~ The amount added to the taxpayer's total value and subtracted from the net carrying value of the taxpayer's liabilities shall not exceed the amount of the net carrying value of the taxpayer's liabilities owed to the taxpayer's related members.

~~(ii)(b)~~ A liability owed to the taxpayer's related members includes, but is not limited to, any amount that the corporation owes to a person that is not a related member if the corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) The base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C)(1) and ~~(2)(D)~~ of this section ~~by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) to (iv) of this section~~ but without regard to section 5733.052 of the Revised Code.

(4) For purposes of division ~~(C)(D)~~ of this section, "related member" has the same meaning as in ~~division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.~~

Sec. 5733.051. ~~Subject~~ For purposes of this section, "available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the report for the tax year immediately following the last day of the taxable year, and "modified qualifying controlled group" means that portion of a qualifying controlled group consisting of the corporation the sale of which resulted in the gain or loss described in division (E) of this section together with all members of the qualifying controlled group owned directly or indirectly by that corporation, or the corporation that directly paid the dividend or directly made the distribution described in division (F) of this section together with all members of the qualifying controlled group owned directly or indirectly by that corporation.

Subject to section 5733.0510 of the Revised Code, net nonbusiness

income of a corporation ~~subject to the tax imposed by section 5733.06 of the Revised Code~~ shall be allocated and apportioned to this state as follows:

(A) Net rents and royalties from real property located in this state are allocable to this state. Net rents and royalties from real property not located in this state are allocable outside this state.

(B) Net rents and royalties from tangible personal property, to the extent such property is utilized in this state, are allocable to this state ~~if the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code.~~ Net rents and royalties from tangible personal property, to the extent such property is utilized outside this state, are allocable outside this state.

(C) Capital gains and losses from the sale or other disposition of real property located in this state are allocable to this state. Capital gains and losses from the sale or other disposition of real property located outside this state are allocable outside this state.

(D) Capital gains and losses from the sale or other disposition of tangible personal property are allocable to this state ~~if the property had a situs in this state at the time of sale and the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code~~ to the extent such property was utilized in this state prior to the property's sale or other disposition. Capital gains and losses from the sale or other disposition of tangible personal property are allocable outside this state to the extent such property was utilized outside this state prior to the property's sale or other disposition.

(E) Capital gains and losses from the sale or other disposition of intangible property which may produce income enumerated in division (F)(1) of this section are allocable on the same basis as set forth in that division, substituting the day of the sale or disposition for the day on which the payor pays the dividend or makes the distribution, but if the location of the physical assets described in that division is not available to the taxpayer, such gains and losses are apportionable under division (I) of this section. Capital gains and losses from the sale or other disposition of all other intangible property are apportionable under division (I) of this section.

(F) "Dividends or distributions" to which this division refers are dividends directly or indirectly paid by or distributions directly or indirectly made by any person classified for federal income tax purposes as an association taxable as a corporation.

(1) Dividends or distributions which are not otherwise deducted or excluded from net income, other than dividends or distributions from a domestic international sales corporation, ~~are allocable~~ shall be allocated to

~~this state in accordance with the ratio of the book value of the physical assets of the payor of the dividends or distributions located in this state divided by the book value of the total physical assets of the payor located everywhere by multiplying such dividends and distributions by a fraction. The numerator of the fraction is the book value of the physical assets in this state of the payor or, if the payor is a member of a modified qualifying controlled group on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, the sum of the book values of the physical assets in this state of the payor and of all the other members of the modified qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution. The denominator of the fraction is the book value of the physical assets everywhere of the payor or, if the payor is a member of a modified qualifying controlled group on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, the sum of the book values of the physical assets everywhere of the payor and of all the other members of the modified qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution.~~ Dividends or distributions received from a domestic international sales corporation, or from a payor for which the location of whose physical assets described in this division is unavailable ~~not available~~ to the taxpayer, are apportionable under division (I) of this section.

(2) If the payor of a dividend or distribution, or if that payor and any members of the qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, separately or cumulatively own, directly or indirectly, on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, more than fifty per cent of the equity of a pass-through entity, then for purposes of division (F)(1) of this section the payor and the other members are deemed to own the proportionate share of the physical assets that the pass-through entity directly or indirectly owns on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution.

(3) For the purposes of division (F)(3) of this section, "upper level

pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity. For purposes of divisions (F)(1) and (2) of this section, an upper level pass-through entity is deemed to own, on the last day of the upper level pass-through entity's fiscal or calendar year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's fiscal or calendar year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's fiscal or calendar year in which or with which ends the fiscal or calendar year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower level pass-through entity is not available to the upper level pass-through entity, then for purposes of divisions (F)(1) and (2) of this section, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's fiscal or calendar year.

~~(G) Patent and copyright~~ Net rents, net royalties, and net technical assistance fees, not representing the principal source of gross receipts of the taxpayer, from intangible property are allocable to this state to the extent that the activity of the payor thereof giving rise to the payment takes place in this state. If the location of the a payor's activity is unavailable not available to the taxpayer, such corporation, the net rents, net royalties, and net technical assistance fees are allocable or apportionable under division (I) of this section.

~~(H)(1) The following amounts described in division (B)(5) of section 5747.20 of the Revised Code are allocable to this state:~~

(a) All lottery prize awards paid by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(b) All earnings, profit, income, and gain from the sale, exchange, or other disposition of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(c) All earnings, profit, income, and gain from the direct or indirect ownership of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(d) All earnings, profit, income, and gain from the direct or indirect interest in any right in or to any lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code.

(2) Lottery prize awards and related earnings, profit, income, or gain with respect to lotteries sponsored by persons or agencies outside this state shall be allocated outside this state.

(1) ~~Any~~ Every other item of net nonbusiness income, from sources other than those enumerated in divisions (A) to (H) of this section, is allocated entirely to this state except to the extent the allocation of such item of net nonbusiness income entirely to this state is not within the taxing power of this state under the Constitution of the United States. To the extent such allocation entirely to this state would not be within the taxing power of this state under the Constitution of the United States, such item of net nonbusiness income is apportionable to this state on the basis of the mechanism provided in division (B)(2) of section 5733.05 and in section 5733.057 of the Revised Code.

Sec. 5733.056. (A) As used in this section:

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began.

(2) "Borrower or credit card holder located in this state" means:

(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial domicile in this state; or

(b) A borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

(3) "Branch" means a "domestic branch" as defined in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(o), as amended.

(4) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in such employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, such as those employed in foreign countries, the determination of whether such payments would constitute gross income to such employees under the Internal Revenue Code shall be made as though such employees were subject to the Internal Revenue Code.

(5) "Credit card" means a credit, travel, or entertainment card.

(6) "Credit card issuer's reimbursement fee" means the fee a taxpayer

receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(7) "Deposits" has the meaning given in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), as amended.

(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property. "Gross rents" includes:

(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.

(d) The following are not included in the term "gross rents":

(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include debt obligations of subsidiaries, participations, syndications, and leases

treated as loans for federal income tax purposes. "Loan" does not include: properties treated as loans under section 595 of the Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depositor institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security; and other similar items.

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(13) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(14) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which the property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly (a) starts work and to which the employee customarily returns in order to receive instructions from the employer or (b) communicates with the employee's customers or other persons or (c) performs any other functions necessary to the exercise of the trade or profession at some other point or points.

(15) "Qualified institution" means a financial institution that on or after June 1, 1997:

(a)(i) Has consummated one or more approved transactions with insured banks with different home states that would qualify under section 102 of the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338;

(ii) Is a federal savings association or federal savings bank that has consummated one or more interstate acquisitions that result in a financial institution that has branches in more than one state; or

(iii) Has consummated one or more approved interstate acquisitions under authority of Title XI of the Revised Code that result in a financial institution that has branches in more than one state; and

(b) Has at least nine per cent of its deposits in this state as of the last day of June prior to the beginning of the tax year.

(16) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the taxpayer may claim depreciation for federal income tax purposes, or to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division (D) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to specific assets;

(2) Taxes due and payable during the year for which such report was

made;

(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;

(4) Good will, appreciation, and abandoned property as set up in the annual report of the financial institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.

(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:

(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies, of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(c) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of other financial institutions of which at least twenty-five per cent of the other financial institution's issued and outstanding common stock is owned by the financial institution by (2) the total assets of the financial institution as shown on its books. Division (B)(5)(c) of this section applies only with respect to such other financial institutions that for the tax year immediately following the taxpayer's taxable year will pay the tax imposed by division (D) of section 5733.06 of the Revised Code.

(6) Land that has been determined pursuant to section 5713.31 of the Revised Code by the county auditor of the county in which the land is located to be devoted exclusively to agricultural use as of the first Monday of June in the financial institution's taxable year.

(7) Property within this state used exclusively during the taxable year for qualified research as defined in section 5733.05 of the Revised Code.

(C) The base upon which the tax levied under division (D) of section 5733.06 of the Revised Code shall be computed by multiplying the value of a financial institution's issued and outstanding shares of stock as determined in division (B) of this section by a fraction. The numerator of the fraction is the sum of the following: the property factor multiplied by fifteen, the payroll factor multiplied by fifteen, and the sales factor multiplied by seventy. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by fifteen if the property factor has a denominator of zero, by fifteen if the payroll factor has a denominator of zero, and by seventy if the sales factor has a denominator of zero.

(D) A financial institution shall calculate the property factor as follows:

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the tax commissioner may require averaging on a more frequent

basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the tax commissioner or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner or the tax commissioner requires a different method of determining value.

(4)(a) The average value of real property and tangible personal property that the taxpayer has rented from another and is not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(b) Where the use of the general method described in division (D)(4)(a) of this section results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the tax commissioner or by the taxpayer when approved in writing by the tax commissioner. Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the tax commissioner or the tax commissioner requires a different method of valuation.

(5)(a) Except as described in division (D)(5)(b) of this section, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the load to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in division (D)(6)(a)(ii) of this section may be rebutted upon a showing by the tax commissioner, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan shall then be located within this state if (1) the taxpayer had a regular place of business within this state at the time the loan was made; and (2) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(b) In the case of a loan which is assigned by the taxpayer to a place without this state which is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile was within this state.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis and consideration shall be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) "Solicitation" is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business which the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation

occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) "Investigation" is the procedure whereby employees of the taxpayer determine the creditworthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed.

(iv) "Approval" is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) "Administration" is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(d) A loan or advance to a subsidiary corporation at least fifty-one per cent of whose common stock is owned by the financial institution shall be allocated in and out of the state by the application of a ratio whose numerator is the sum of the net book value of the subsidiary's real property owned in this state and the subsidiary's tangible personal property owned in this state and whose denominator is the sum of the subsidiary's real property owned wherever located and the subsidiary's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be

calculated by including the other corporation's real property and tangible personal property. The calculation of the ratio applies with respect to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of the common stock of that subsidiary.

(7) For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to division (D)(6) of this section.

(8) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(E) A financial institution shall calculate the payroll factor as follows:

(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid both within and without this state during the taxable year.

(2) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(a) The employee's services are performed entirely within this state.

(b) The employee's services are performed both within and without this state, but the service performed without this state is incidental to the employee's service within this state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(c) The employee's services are performed both within and without this state, and:

(i) The employee's principal base of operations is within this state; or

(ii) There is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(iii) The principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(F) A financial institution shall calculate the sales factor as follows:

(1) The sales factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the

denominator is the same as the method used in determining receipts for purposes of the numerator.

(2) The numerator of the sales factor includes receipts from the lease or rental of real property owned by the taxpayer if the property is located within this state, or receipts from the sublease of real property if the property is located within this state.

(3)(a) Except as described in division (F)(3)(b) of this section the numerator of the sales factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(b) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the sales factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this paragraph are included in the numerator of the sales factor if more than fifty per cent of the fair market value of the real property is located within this state. If more than fifty per cent of the fair market value of the real property is not located within any one state, then the receipts described in this paragraph shall be included in the numerator of the sales factor if the borrower is located in this state.

(b) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from the sale of

loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the

numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in divisions (F)(13)(a)(i) and (ii) of this section, the sales factor shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such

assets and activities.

(b) The numerator of the sales factor includes interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in division (F)(13)(a) of this section that are attributable to this state.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transaction, but excluding amounts described in division (F)(13)(b)(i) or (ii) of this section, attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible

personal property owned in this state and whose denominator is the sum of the net book value of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(v) For purposes of this division, average value shall be determined using the rules for determining the average value of tangible personal property set forth in division (D)(2) and (3) of this section.

(c) In lieu of using the method set forth in division (F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state, and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of

which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(14) The numerator of the sales factor includes all other receipts if either:

(a) The income-producing activity is performed solely in this state; or

(b) The income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

(G) A qualified institution may calculate the base upon which the fee provided for in division (D) of section 5733.06 of the Revised Code is determined for each tax year by multiplying the value of its issued and

outstanding shares of stock determined under division (B) of this section by a single deposits fraction whose numerator is the deposits assigned to branches in this state and whose denominator is the deposits assigned to branches everywhere. Deposits shall be assigned to branches in the same manner in which the assignment is made for regulatory purposes. If the base calculated under this division is less than the base calculated under division

(C) of this section, then the qualifying institution may elect to substitute the base calculated under this division for the base calculated under division (C) of this section. Such election may be made annually for each tax year on the corporate report. The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. The election is not irrevocable and it applies only to the specified tax year. Nothing in this division shall be construed to extend any statute of limitations set forth in this chapter.

(H) If the apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one or more of the factors;
- (3) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's value.

Sec. 5733.057. As used in this section, "adjusted qualifying amount" has the same meaning as in section 5733.40 of the Revised Code.

This section does not apply to divisions (E) and (F) of section 5733.051 of the Revised Code.

Except as otherwise provided in divisions (A) and (B) of section 5733.401 and in sections 5733.058 and 5747.401 of the Revised Code, in making all apportionment, allocation, income, gain, loss, deduction, tax, and credit computations under this chapter and under sections 5747.41 and 5747.43 of the Revised Code, each person shall include in that person's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, if any, apportionable income or loss, property, compensation, and sales, the person's entire distributive share or proportionate share of the items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales of any pass-through entity in

which the person has a direct or indirect ownership interest at any time during the pass-through entity's calendar or fiscal year ending within, or with the last day of the person's taxable year. A pass-through entity's direct or indirect distributive share or proportionate share of any other pass-through entity's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales shall be included for the purposes of computing the person's distributive share or proportionate share of the pass-through entity's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales under this section. Those items shall be in the same form as was recognized by the pass-through entity.

Sec. 5733.059. (A) As used in this section:

(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.

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

(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:

(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with division (B) of this section. Any

remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situate the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the siting provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting;

(2) The exclusion of one or more additional siting factors that will fairly represent the taxpayer's and the related member's sales in this state;

(3) The inclusion of one or more additional siting factors that will fairly represent the taxpayer's and the related member's sales in this state.

The taxpayer's request shall be in writing and shall be filed with the report required by section 5733.02 of the Revised Code, a timely filed petition for reassessment, or a timely filed amended report. An alternative siting method shall be effective with the approval of the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(F) If the siting provisions of this section do not fairly represent activity in this state, the tax commissioner may promulgate rules to situate

sales using a methodology that fairly reflects sales in this state.

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 5703.56 of the Revised Code to the contrary, a person situsing a sale outside this state has the burden to establish by a preponderance of the evidence that the doctrines enumerated in ~~those sections~~ that section do not apply.

Sec. 5733.0511. (A) As used in this section:

(1) "Qualifying telephone company taxpayer" means either of the following:

(a) A telephone company, but only if the telephone company was subject to the tax imposed by section 5727.30 of the Revised Code for gross receipts received during the period from July 1, 2003, to June 30, 2004, and the telephone company's property subject to taxation under Chapter 5727. of the Revised Code for tax years 2003 through 2006 was assessed using the true value percentages provided for in division (B) of section 5727.111 of the Revised Code.

(b) Any taxpayer not described in division (A)(1)(a) of this section if a telephone company described in division (A)(1)(a) of this section transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization, or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue Code on account of a transfer as part of an entity organization or reorganization, or subsequent entity organization or reorganization.

(2) "Qualifying telephone company asset" means any asset shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles.

(3) "Net income" has the same meaning as in division (I) of section 5733.04 of the Revised Code.

(4) "Book-tax difference" means the difference, if any, between a qualifying telephone company asset's net book value shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles, and such asset's adjusted basis on December 31, 2003. The book-tax difference may be a negative number.

(5) Solely for purposes of division (A)(1)(a) of this section, "tax year" has the same meaning as used in section 5727.01 of the Revised Code.

(B) In computing net income under division (I) of section 5733.04 of the Revised Code, a qualifying telephone company taxpayer shall adjust net income to reflect a ten-year amortization of the book-tax difference for each

qualifying telephone company asset, in equal installments over each of the ten tax years beginning with 2010. If the net book value exceeds the adjusted basis of the asset as of December 31, 2003, net income shall be reduced in each of the ten years beginning with tax year 2010 by one-tenth of the book-tax difference. If the adjusted basis exceeds the net book value of the asset as of December 31, 2003, net income shall be increased in each of the ten years beginning with tax year 2010 by one-tenth of the absolute value of the book-tax difference. The adjustment to net income provided for by this division shall apply without regard to the disposal of those assets after December 31, 2003.

(C) The allocation and apportionment of this amortization of the book-tax difference under this section shall be governed by division (B) of section 5733.05 and by section 5733.051 of the Revised Code. The tax commissioner may prescribe rules regarding the apportionment of the amortization of the book-tax difference under this section.

(D) Nothing in this section shall allow for an adjustment more than once with respect to the same qualifying asset or allow more than one corporation to claim an adjustment with respect to the same qualifying telephone company asset.

Sec. 5733.06. The tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this section, except that the tax hereby charged each financial institution subject to this chapter shall be the amount computed under division (D) of this section:

(A) Except as set forth in division (F) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(B) Except as set forth in division (F) of this section, eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; or

(C)(1) Except as otherwise provided under division (G) of this section, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. For the purposes of division (C) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of an eligible corporation for tax year 2003 through tax year 2007, or of a qualified holding company, is zero.

(2) As used in division (C) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria:

(a) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code.

(b) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code.

(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

(1) For tax years prior to the 1999 tax year, fifteen mills;

(2) For the 1999 tax year, fourteen mills;

(3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for ~~all corporations~~ each corporation shall be ~~fifty dollars~~ as follows:

(1) One thousand dollars in the case of a corporation having gross receipts for the taxable year equal to at least five million dollars from activities within or outside this state or in the case of a corporation

employing at least three hundred employees at some time during the taxable year within or outside this state;

(2) Fifty dollars in the case of any other corporation.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code in this state to impose an income tax on the income of such corporations.

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that

was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), (F), and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), (B), and (F) of this section to that income.

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations

began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in divisions (A) and (B) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.0611. (A) There is hereby allowed a nonrefundable credit against the tax imposed under section 5733.06 of the Revised Code. The credit shall be equal to the taxpayer's proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code for the qualifying taxable year of the qualifying entity that ends in the taxable year of the taxpayer. The taxpayer shall claim the credit for the taxpayer's taxable year in which ends the qualifying entity's qualifying taxable year.

In claiming the credit and determining its proportionate share of the tax

due and the tax paid by the qualifying entity, the person claiming the credit shall follow the concepts set forth in subchapter K of the Internal Revenue Code. Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed and the credits allowed under this chapter.

The credit shall be claimed in the order required under section 5733.98 of the Revised Code. Any unused credit shall be allowed as a credit in the ensuing tax year. Any such amount allowed as a credit in an ensuing tax year shall be deducted from the balance carried forward to the next ensuing tax year.

(B) Any person that is not a taxpayer solely by reason of division (A) or (C) of section 5733.09 of the Revised Code or a person described in section 501(c) of the Internal Revenue Code or division (F) of section 3334.01 of the Revised Code, but that would be entitled to claim the nonrefundable credit under this section if that person were a taxpayer, may file an application for refund pursuant to section 5733.12 of the Revised Code. Upon proper application for refund under that section, the tax commissioner shall issue a refund in the amount of the credit to which that person would have been entitled under division (A)(1) of this section if the person had been a taxpayer, and as if the credit were a refundable credit.

(C) If an organization described in section 401(a) of the Internal Revenue Code or a trust or fund is entitled to a proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code, and if that proportionate share is then or could be allocable to an exempt person as defined in division (D) of this section, then the organization, trust, or fund may file an application for refund with respect to such allocable amounts pursuant to section 5733.12 of the Revised Code. Upon proper application for refund under that section, the tax commissioner shall issue a refund in the amount of the credit to which the organization, trust, or fund would have been entitled under division (A)(1) of this section had the organization, trust, or fund been a taxpayer, and as if the credit were a refundable credit. To the extent that such an organization, trust, or fund is permitted to apply for a refund under this division, or to the extent that such an organization, trust, or fund has applied for such a refund, exempt persons are not entitled to the credit authorized under this section or section 5747.059 of the Revised Code.

(D)(1) For the purposes of division (C) of this section only, "exempt person" means any of the following:

(a) A person that is or may be the beneficiary of a trust if the trust is

subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person is an exempt person under division (D) of this section.

(c) A person, other than a person that is treated as a C corporation for federal income tax purposes, who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (D)(1)(c) of this section applies only if the trust irrevocably agrees that for the taxable year during or for which the trust distributes any of its income to any of the beneficiaries, the trust is a qualifying trust as defined in section 5733.40 of the Revised Code and will pay the estimated tax, and will withhold and pay the withheld tax as required under section 5733.41 and sections 5747.40 to 5747.453 of the Revised Code.

(2) An exempt person does not include any person that would not qualify as an exempt person under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 5703.56 of the Revised Code to the contrary, an organization, trust, or fund described in division (C) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to a claim for a refundable credit under this section does not have as a principal purpose a claim for that credit. Nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in division (D)(2) of this section.

(E) Nothing in this section shall be construed to allow a refund more than once with respect to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code.

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions (A)(2) and (3) of this section, an incorporated company, whether foreign or domestic, owning and operating a public utility in this state, and required by law to file reports with the tax commissioner and to pay an excise tax upon its gross receipts, and insurance, fraternal, beneficial, bond investment, and other corporations required by law to file annual reports with the superintendent of insurance and dealers in intangibles, the shares of which are, or the

capital or ownership in capital employed by such dealer is, subject to the taxes imposed by section 5707.03 of the Revised Code, shall not be subject to this chapter, except for sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of the Revised Code. However, for reports required to be filed under section 5725.14 of the Revised Code in 2003 and thereafter, nothing in this section shall be construed to exempt the property of any dealer in intangibles under section 5725.13 of the Revised Code from the tax imposed under section 5707.03 of the Revised Code. ~~Am~~

(2) An electric company subject to the filing requirements of section 5727.08 of the Revised Code or otherwise having nexus with or in this state under the Constitution of the United States, or any other corporation having any gross receipts directly attributable to providing public utility service as an electric company or having any property directly attributable to providing public utility service as an electric company, is subject to this chapter.

(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent.

(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year.

A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect.

(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all

investors, shareholders, and other similar investors who owned any interest or invested in the entity during the preceding calendar year. The commissioner may extend the date by which the report must be submitted for reasonable cause shown by the entity. The commissioner may prescribe the form of the report required for exemption under this division.

(D)(1) As used in this division:

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation, cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer" means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

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

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a

commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(3) The exemption under this division does not apply for a taxable year to any corporation having on the first day of January of the tax year or at any time during the taxable year ending immediately preceding the first day of January of the tax year a related member which, on the first day of January of the tax year or during any portion of such taxable year of the corporation, has nexus in or with this state under the Constitution of the United States or holds a certificate of compliance with the laws of this state authorizing it to do business in this state.

(4) With respect to allowing the exemption under this division, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A corporation shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this division did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

Application of the doctrines listed in division (D)(4) of this section is not limited to this division.

Sec. 5733.121. If a corporation entitled to a refund under section 5733.11 or 5733.12 of the Revised Code is indebted to this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, or unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code or fee ~~administered by the tax commissioner~~ that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium,

unemployment compensation contribution, or unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the corporation has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax due for any tax year, of the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5733.18. Annually, on the day fixed for the payment of any excise or franchise tax required to be paid by law, such tax, together with any penalties subsequently accruing thereon, shall become a lien on all property in this state of a corporation, whether such property is employed by the corporation in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of the creditors and stockholders. Such lien shall continue until such taxes, together with any penalties subsequently accruing, are paid.

Upon failure of such corporation to pay such tax on the day fixed for payment, the tax commissioner may file, for which filing no fee shall be charged, in the office of the county recorder in each county in this state in which such corporation owns or has a beneficial interest in real estate, notice of such lien containing a brief description of such real estate. Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time such notice is so filed in the county in which the real estate which is the subject of such mortgage, purchase, or judgment lien is located. Such notice shall be recorded in a book kept by the recorder, called the corporation franchise lien record, and indexed under the name of the corporation charged with such tax. When such tax, together with any penalties subsequently accruing thereon, has been paid, the tax commissioner shall furnish to the corporation an acknowledgment of such payment which the corporation may record with the recorder of each county in which notice of such lien has been filed, for which recording the recorder shall charge and receive a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5733.22. (A)(1) Any corporation whose articles of incorporation or

license certificate to do or transact business in this state has been canceled by the secretary of state pursuant to section 5733.20 of the Revised Code for failure to make any report or return or to pay any tax or fee, shall be reinstated and again entitled to exercise its rights, privileges, and franchises in this state, and the secretary of state shall cancel the entry of cancellation to exercise its rights, privileges, and franchises upon compliance with all of the following:

(a) Payment to the secretary of state of any additional fees and penalties required to be paid to the secretary of state;

(b) Filing with the secretary of state a certificate from the tax commissioner that it has complied with all the requirements of law as to franchise or excise tax reports and paid all franchise or excise taxes, fees, or penalties due thereon for every year of its delinquency;

(c) Payment to the secretary of state of an additional fee of ten dollars.

(2) The applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name if all of the following apply:

(a) The reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation of its license to do business;

(b) It appears that the applicant's articles of incorporation or license certificate has been issued to another entity and is not distinguishable upon the record from the name of the applicant;

(c) It appears that the articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name has been issued to another entity and is not distinguishable upon the record from the name of the applicant. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code.

Any officer, shareholder, creditor, or receiver of any such corporation may at any time take all steps required by this section to effect such reinstatement.

(B) The rights, privileges, and franchises of a corporation whose articles of incorporation have been reinstated in accordance with this section, are subject to section 1701.922 of the Revised Code.

(C) Notwithstanding a violation of section 5733.21 of the Revised Code,

upon reinstatement of a corporation's articles of incorporation in accordance with this section, neither section 5733.20 nor section 5733.21 of the Revised Code shall be applied to invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to the reinstatement of the articles, if the conditions set forth in divisions (B)(1)(a) and (b) of section 1701.922 of the Revised Code are met.

Sec. 5733.45. (A) For purposes of this section, a "qualifying dealer in intangibles" is a dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member on the first day of the financial institution's tax year.

(B) For tax years 2002 and thereafter, there is hereby allowed to each financial institution a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit shall be computed in accordance with division (C) of this section. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. The credit shall not exceed the amount of tax otherwise due under section 5733.06 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.

(C) Subject to division (D) of this section, the amount of the nonrefundable credit is the lesser of the amount described in division (C)(1) of this section or the amount described in division (C)(2) of this section.

(1) The amount of tax that a qualifying dealer in intangibles paid under Chapter 5707. of the Revised Code during the calendar year immediately preceding the financial institution's tax year. Such amount shall be reduced, but not below zero, by any refunds of such tax received by the qualifying dealer in intangibles under Chapter 5703. of the Revised Code during that calendar year.

(2) The product of the amounts described in division (C)(2)(a) to (C)(2)(c) of this section. The amount described in division (C)(2)(a) of this section shall be ascertained on the last day of the financial institution's taxable year immediately preceding the tax year.

(a) The cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles. The cost does not include any appreciation or goodwill to the extent those amounts are allowed as an exempted asset on the financial institution's annual report.

(b) The ratio described in section 5725.15 of the Revised Code for the calendar year immediately preceding the financial institution's tax year;

(c) The tax rate imposed under division (D) of section 5707.03 of the Revised Code for the calendar year immediately preceding the financial

institution's tax year.

(D)(1) The principles and concepts set forth in section 5733.057 of the Revised Code shall apply to ascertain if a dealer in intangibles is a member of a qualifying controlled group of which the financial institution also is a member and to ascertain the cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles.

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised Code to the contrary, a financial institution claiming the credit provided by this section has the burden to establish by a preponderance of the evidence that none of the doctrines enumerated in that section would apply to deny to the financial institution all or a part of the credit otherwise provided by this section.

(E) For tax years 2002 and 2003, the credit allowed by this section applies only if the qualifying dealer in intangibles on account of which the financial institution is claiming the credit submits to the ~~Tax Commissioner~~ tax commissioner, not later than January 15, 2002, a written statement that the qualifying dealer in intangibles irrevocably agrees that it will not seek a refund of the tax paid by the dealer under section 5707.03 of the Revised Code in 2000 and 2001, and irrevocably agrees to continue paying that tax in 2002, regardless of the amendment of section 5725.26 of the Revised Code by Am. Sub. H.B. 405 of the 124th general assembly.

Sec. 5733.49. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code. If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy-five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due under those sections after all the taxpayer's credits are deducted in that order. If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that precede the credit allowed under this section, the excess shall be allowed as a credit in each of

the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year.

Sec. 5733.55. (A) As used in this section:

(1) "9-1-1 system" has the same meaning as in section 4931.40 of the Revised Code.

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges approved by the public utilities commission for the telephone network portion of a 9-1-1 system pursuant to section 4931.47 of the Revised Code.

(3) "Eligible nonrecurring 9-1-1 charges" means all nonrecurring 9-1-1 charges for a 9-1-1 system, except:

(a) Charges for a system that was not established pursuant to a plan adopted under section 4931.44 of the Revised Code or an agreement under section 4931.48 of the Revised Code;

(b) Charges for that part of a system established pursuant to such a plan or agreement that are excluded from the credit by division (C)(2) of section 4931.47 of the Revised Code.

(4) "Telephone company" has the same meaning as in section 5727.01 of the Revised Code.

(B) Beginning in tax year 2005, a telephone company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code equal to the amount of its eligible nonrecurring 9-1-1 charges. The credit shall be claimed for the company's taxable year that covers the period in which the 9-1-1 service for which the credit is claimed becomes available for use. The credit shall be claimed in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted.

(C) After the last day a return, with any extensions, may be filed by any telephone company that is eligible to claim a credit under this section, the commissioner shall determine whether the sum of the credits allowed for prior tax years commencing with tax year 2005 plus the sum of the credits claimed for the current tax year exceeds fifteen million dollars. If it does, the credits allowed under this section for the current tax year shall be reduced by a uniform percentage such that the sum of the credits allowed for the current tax year do not exceed fifteen million dollars claimed by all telephone companies for all tax years. Thereafter, no credit shall be granted under this section, except for the remaining portions of any credits allowed under division (B) of this section.

(D) A telephone company that is entitled to carry forward a credit against its public utility excise tax liability under section 5727.39 of the Revised Code is entitled to carry forward any amount of that credit remaining after its last public utility excise tax payment for the period of July 1, 2003, through June 30, 2004, and claim that amount as a credit against its corporation franchise tax liability under this section. Nothing in this section authorizes a telephone company to claim a credit under this section for any eligible nonrecurring 9-1-1 charges for which it has already claimed a credit under section 5727.39 of the Revised Code.

Sec. 5733.56. Beginning in tax year 2005, a telephone company that provides any telephone service program to aid the communicatively impaired in accessing the telephone network under section 4905.79 of the Revised Code is allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit is the cost incurred by the company for providing the telephone service program during its taxable year, excluding any costs incurred prior to July 1, 2004. If the tax commissioner determines that the credit claimed under this section by a telephone company was not correct, the commissioner shall determine the proper credit.

A telephone company shall claim the credit in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted. Nothing in this section authorizes a telephone company to claim a credit under this section for any costs incurred for providing a telephone service program for which it is claiming a credit under former section 5727.44 of the Revised Code.

Sec. 5733.57. (A) As used in this section:

(1) "Small telephone company" means a telephone company, existing as such as of January 1, 2003, with twenty-five thousand or fewer access lines as shown on the company's annual report filed under section 4905.14 of the Revised Code for the calendar year immediately preceding the tax year, and is an "incumbent local exchange carrier" under 47 U.S.C. 251(h).

(2) "Gross receipts tax amount" means the product obtained by multiplying four and three-fourths per cent by the amount of a small telephone company's taxable gross receipts, excluding the deduction of twenty-five thousand dollars, that the tax commissioner would have determined under section 5727.33 of the Revised Code for that small telephone company for the annual period ending on the thirtieth day of June

of the calendar year immediately preceding the tax year, as that section applied in the measurement period from July 1, 2002, to June 30, 2003.

(3) "Applicable percentage" means one hundred per cent for tax year 2005; eighty per cent for tax year 2006; sixty per cent for tax year 2007; forty per cent for tax year 2008; twenty per cent for tax year 2009; and zero per cent for each subsequent tax year thereafter.

(4) "Applicable amount" means the amount resulting from subtracting the gross receipts tax amount from the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for the tax year, without regard to any credits available to the small telephone company.

(B)(1) Except as provided in division (B)(2) of this section, beginning in tax year 2005, a small telephone company is hereby allowed a nonrefundable credit against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the product obtained by multiplying the applicable percentage by the applicable amount. The credit shall be claimed in the order required by section 5733.98 of the Revised Code.

(2) If the applicable amount for a tax year is less than zero, a small telephone company shall not be allowed for that tax year the credit provided under this section.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child day-care

expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of ~~th~~ the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;

(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(15) The job training credit under section 5733.42 of the Revised Code;

(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;

(17) The enterprise zone credit under section 5709.66 of the Revised Code;

(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;

(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(22) The export sales credit under section 5733.069 of the Revised Code;

(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

(24) The enterprise zone credits under section 5709.65 of the Revised Code;

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;

(26) The credit for small telephone companies under section 5733.57 of the Revised Code;

(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;

(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(27)~~(30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(28)~~(31) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(26)~~, ~~(27)~~, ~~(29)~~, (30), and ~~(28)~~(31) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5735.05. (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties of the state properly to plan, maintain, and repair their roads and to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code for highway improvements; to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets, and to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code for highway improvements; to enable the Ohio turnpike commission to construct, reconstruct, maintain, and repair turnpike projects; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under sections 4907.47 and 4907.471 of the Revised Code and to supplement revenue already available for such purposes; to pay the costs incurred by the public utilities commission in administering sections 4907.47 to 4907.476 of the Revised Code; to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and

repairing them; to pay the interest, principal, and charges on highway capital improvements bonds and other obligations issued pursuant to Section 2m of Article VIII, Ohio Constitution, and section 151.06 of the Revised Code; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; ~~and to provide revenue for the purposes of sections 1547.71 to 1547.78 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the motor fuel~~ laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon receipt of motor fuel within this state at the rate of two cents plus the cents per gallon rate on each gallon so received, to be computed in the manner set forth in section 5735.06 of the Revised Code; provided that no tax is hereby imposed upon the following transactions:

(1) The sale of dyed diesel fuel by a licensed motor fuel dealer from a location other than a retail service station provided the licensed motor fuel dealer places on the face of the delivery document or invoice, or both if both are used, a conspicuous notice stating that the fuel is dyed and is not for taxable use, and that taxable use of that fuel is subject to a penalty. The tax commissioner, by rule, may provide that any notice conforming to rules or regulations issued by the United States department of the treasury or the Internal Revenue Service is sufficient notice for the purposes of division (A)(1) of this section.

(2) The sale of K-1 kerosene to a retail service station, except when placed directly in the fuel supply tank of a motor vehicle. Such sale shall be rebuttably presumed to not be distributed or sold for use or used to generate power for the operation of motor vehicles upon the public highways or upon the waters within the boundaries of this state.

(3) The sale of motor fuel by a licensed motor fuel dealer to another licensed motor fuel dealer;

(4) The exportation of motor fuel by a licensed motor fuel dealer from this state to any other state or foreign country;

(5) The sale of motor fuel to the United States government or any of its agencies, except such tax as is permitted by it, where such sale is evidenced by an exemption certificate, in a form approved by the tax commissioner, executed by the United States government or an agency thereof certifying that the motor fuel therein identified has been purchased for the exclusive use of the United States government or its agency;

(6) The sale of motor fuel ~~which~~ that is in the process of transportation in foreign or interstate commerce, except ~~in so far~~ insofar as it may be taxable under the Constitution and statutes of the United States, and except

as may be agreed upon in writing by the dealer and the commissioner;

(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;

(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type A;

(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type B, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.

(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.

Division (A)(1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.

(B) The two cent motor fuel tax levied by this section is also for the purpose of paying the expenses of administering and enforcing the state law relating to the registration and operation of motor vehicles.

(C) After the tax provided for by this section on the receipt of any motor fuel has been paid by the motor fuel dealer, the motor fuel may thereafter be used, sold, or resold by any person having lawful title to it, without incurring liability for such tax.

If a licensed motor fuel dealer sells motor fuel received by the licensed motor fuel dealer to another licensed motor fuel dealer, the seller may deduct on the report required by section 5735.06 of the Revised Code the number of gallons so sold for the month within which the motor fuel was sold or delivered. In this event the number of gallons is deemed to have been received by the purchaser, who shall report and pay the tax imposed thereon.

Sec. 5735.053. There is hereby created in the state treasury the motor fuel tax administration fund for the purpose of paying the expenses of the department of taxation incident to the administration of the motor fuel laws.

After the treasurer of state credits the tax refund fund out of tax receipts as required by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised Code, the treasurer of state shall transfer to the motor fuel tax

administration fund two hundred seventy-five one-thousandths per cent of the receipts from the taxes levied by sections 5735.05, 5735.25, 5735.29, and 5735.30 of the Revised Code.

Sec. 5735.14. (A) Any person who uses any motor fuel, on which the tax imposed by this chapter has been paid, for the purpose of operating stationary gas engines, tractors not used on public highways, unlicensed motor vehicles used exclusively in intraplant operations, vessels when used in trade, including vessels when used in connection with an activity that constitutes a person's chief business or means of livelihood or any other vessel used entirely for commercial purposes, vessels used for commercial fishing, vessels used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship, vessels used or owned by any railroad company, railroad car ferry company, the United States, this state, or any political subdivision of this state, or aircraft, or who uses any such fuel upon which such tax has been paid, for cleaning or for dyeing, or any purpose other than the operation of motor vehicles upon highways or upon waters within the boundaries of this state, shall be reimbursed in the amount of the tax so paid on such motor fuel as provided in this section; provided, that any person purchasing motor fuel in this state on which taxes levied under Title LVII of the Revised Code have been paid shall be reimbursed for such taxes paid in this state on such fuel used by that person in another state on which a tax is paid for such usage, except such tax used as a credit against the tax levied by section 5728.06 of the Revised Code. A person shall not be reimbursed for taxes paid on fuel that is used while a motor vehicle is idling or used to provide comfort or safety in the operation of a motor vehicle. Sales of motor fuel, on which the tax imposed by this chapter has been paid, from one person to another do not constitute use of the fuel and are not subject to a refund under this section.

~~Such~~ (B) Any person who uses in this state any motor fuel with water intentionally added to the fuel, on which the taxes imposed by this chapter or Chapter 5728. of the Revised Code have been paid, shall be reimbursed in the amount of the taxes so paid on ninety-five per cent of the water. This division applies only to motor fuel that contains at least nine per cent water, by volume.

(C) A person claiming reimbursement under this section shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for the refundable purposes other than the operation of motor vehicles in division (A) or (B) of this section, except that no person shall file a claim for the tax on fewer than one hundred gallons of motor fuel. An application for refund filed for the

purpose of division (B) of this section also shall state the quantity of water intentionally added to the motor fuel. No person shall claim reimbursement under that division on fewer than one hundred gallons of water. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing such purchase, together with evidence of payment thereof.

(D) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

No refund shall be authorized or paid under this section on a single claim for tax on fewer than one hundred gallons of motor fuel. And, when water has been intentionally added to fuel, no refund shall be authorized or paid under this section on a single claim for tax on fewer than one hundred gallons of water. The commissioner may require that the application be supported by the affidavit of the claimant.

The refund authorized by this section or section 5703.70 of the Revised Code shall be reduced by the cents per gallon amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

(E) The right to receive any refund under this section or section 5703.70 of the Revised Code is not assignable. The payment of this refund shall not be made to any person other than the person originally entitled thereto who used the motor fuel upon which the claim for refund is based, except that such refunds, when allowed and certified as provided in this section, may be paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such person.

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code has been paid, for the purpose of operating a transit bus shall be reimbursed in the amount of the tax paid on motor fuel used by public transportation systems providing transit or paratransit service on a regular and continuing basis within the state;

(2) A city, exempted village, joint vocational, or local school district or educational service center that uses purchases any motor fuel for school district or service center operations, on which any tax imposed by section

5735.29 of the Revised Code that became effective on or after July 1, 2003, has been paid, may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of ~~that~~ the total tax imposed by such section and paid on motor fuel, ~~used for providing transportation for pupils in a vehicle the district owns or leases.~~

(B) Such person, school district, or educational service center shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for operating transit buses used by local transit systems in furnishing scheduled common carrier, public passenger land transportation service along regular routes primarily in one or more municipal corporations or for operating vehicles used ~~by~~ for school districts to transport pupils district or service center operations. However, no ~~person shall file a claim~~ shall be made for the tax on fewer than one hundred gallons of motor fuel. A school district or educational service center shall not apply for a refund for any tax paid on motor fuel that is sold by the district or educational service center. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing the purchase, together with evidence of payment thereof.

(C) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

The commissioner may require that the application be supported by the affidavit of the claimant. No refund shall be authorized or ordered for any single claim for the tax on fewer than one hundred gallons of motor fuel. No refund shall be authorized or ordered on motor fuel that is sold by a school district or educational service center.

(D) The refund authorized by this section or section 5703.70 of the Revised Code shall be reduced by the cents per gallon amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

(E) The right to receive any refund under this section or section 5703.70 of the Revised Code is not assignable. The payment of this refund shall not be made to any person or entity other than the person or entity originally entitled thereto who used the motor fuel upon which the claim for refund is

based, except that the refund when allowed and certified, as provided in this section, may be paid to the executor, the administrator, the receiver, the trustee in bankruptcy, or the assignee in insolvency proceedings of the person.

Sec. 5735.15. When motor fuel is sold to a person who claims to be entitled to a refund under section 5735.14 or 5735.142 of the Revised Code, the seller of such motor fuel shall ~~make out in duplicate on forms prescribed and supplied by the tax commissioner, which forms shall have printed thereon~~ provide to the person documentation that indicates that the liability to the state for the excise tax imposed under the motor fuel laws of this state on such motor fuel has been assumed by the seller, and that said excise tax has already been paid or will be paid by the seller when the same becomes payable, ~~a statement setting~~. The documentation also shall set forth the name and address of the purchaser, the number of gallons of motor fuel sold, the price paid for or the price per gallon of the motor fuel sold, the proposed use for which such motor fuel is purchased, and such other information as the commissioner requires. When motor fuel is sold to a person who claims to be entitled to reimbursement under division (B) of section 5735.14 of the Revised Code, the documentation also shall state the number of gallons of water intentionally added to the motor fuel. The original of such statement documentation shall be given to the purchaser, and the duplicate a copy shall be retained by the seller.

Sec. 5735.19. (A) The tax commissioner may examine, during the usual business hours of the day, the records, books, ~~and papers~~ invoices, storage tanks, and any other equipment of any motor fuel dealer, retail dealer, exporter, terminal operator, purchaser, or common carrier pertaining to motor fuel received, sold, shipped, or delivered, to determine whether the taxes imposed by this chapter have been paid and to verify the truth and accuracy of any statement, report, or return. ~~The~~

(B) The tax commissioner may, in the enforcement of the motor fuel laws of this state, hold hearings, take the testimony of any person, issue subpoenas and compel the attendance of witnesses, and conduct such investigations as the commissioner deems necessary, ~~but no person shall disclose the information acquired by the commissioner under this section, except when required to do so in court.~~ Such information or evidence is not privileged when used by the state or any officer thereof in any proceeding for the collection of the tax, or any prosecution for violation of the motor fuel laws.

(C) The commissioner may prescribe all forms upon which reports shall be made to the commissioner, forms for claims for refund presented to the

commissioner, or forms of records to be used by motor fuel dealers.

(D)(1) As used in this division, "designated inspection site" means any state highway inspection station, weigh station, mobile station, or other similar location designated by the tax commissioner to be used as a fuel inspection site.

(2) An employee of the department of taxation that is so authorized by the tax commissioner may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of fuel, fuel dyes, or fuel markers, and books and records, if any, that are maintained at the place of inspection and are kept to determine tax liability under this chapter. Inspections may be performed at any place at which motor fuel is or may be produced or stored, or at any designated inspection site.

(3) An employee of the department of taxation who is a duly authorized enforcement agent may detain any motor vehicle, train, barge, ship, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment shall be on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the fuel.

(4) Any employee described in division (D)(2) or (3) of this section who has been properly trained may take and remove samples of fuel in quantities as are reasonably necessary to determine the composition of the fuel.

(5) No person shall refuse to allow an inspection under division (D) of this section. Any person who refuses to allow an inspection shall be subject to revocation or cancellation of any license or permit issued under Chapter 5728. or 5735. of the Revised Code.

Sec. 5735.23. (A) Out of receipts from the tax levied by section 5735.05 of the Revised Code, the treasurer of state shall place to the credit of the tax refund fund established by section 5703.052 of the Revised Code amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.13, 5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The treasurer of state shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund ~~and~~, the amount required by section 4907.472 of the Revised Code to the grade crossing protection fund, ~~and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund.~~

(B) Except as provided in division (D) of this section, each month the balance of the receipts from the tax levied by section 5735.05 of the Revised Code shall be credited, after receipt by the treasurer of state of certification from the commissioners of the sinking fund, as required by section 5528.35

of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, as follows:

(1) To the state and local government highway distribution fund, which is hereby created in the state treasury, an amount that is the same percentage of the balance to be credited as that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code is of the total tax per gallon determined under divisions (B)(2)(a) and (b) of that section.

(2) After making the distribution to the state and local government highway distribution fund, the remainder shall be credited as follows:

(a) Thirty per cent to the gasoline excise tax fund for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code;

(b) Twenty-five per cent to the gasoline excise tax fund for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code;

(c) Except as provided in division (D) of this section, forty-five per cent to the highway operating fund for distribution pursuant to division (B)(1) of section 5735.27 of the Revised Code.

(C) From the balance in the state and local government highway distribution fund on the last day of each month there shall be paid the following amounts:

(1) To the local transportation improvement program fund created by section 164.14 of the Revised Code, an amount equal to a fraction of the balance in the state and local government highway distribution fund, the numerator of which fraction is one and the denominator of which fraction is that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code;

(2) An amount equal to five cents multiplied by the number of gallons of motor fuel sold at stations operated by the Ohio turnpike commission, such gallonage to be certified by the commission to the treasurer of state not later than the last day of the month following. The funds paid to the commission pursuant to this section shall be expended for the construction, reconstruction, maintenance, and repair of turnpike projects, except that the funds may not be expended for the construction of new interchanges. The funds also may be expended for the construction, reconstruction, maintenance, and repair of those portions of connecting public roads that serve existing interchanges and are determined by the commission and the

director of transportation to be necessary for the safe merging of traffic between the turnpike and those public roads.

The remainder of the balance shall be distributed as follows on the fifteenth day of the following month:

(a) Ten and seven-tenths per cent shall be paid to municipal corporations for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of two hundred forty-eight thousand six hundred twenty-five dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(b) Five per cent shall be paid to townships for distribution pursuant to division (A)(5) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of eighty-seven thousand seven hundred fifty dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(c) Nine and three-tenths per cent shall be paid to counties for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of two hundred forty-eight thousand six hundred twenty-five dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(d) Except as provided in division (D) of this section, the balance shall be transferred to the highway operating fund and used for the purposes set forth in division (B)(1) of section 5735.27 of the Revised Code.

(D) Beginning on the first day of September each fiscal year, any amounts required to be credited or transferred to the highway operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this section shall be credited or transferred to the highway capital improvement bond service fund created in section 151.06 of the Revised Code, until such time as the office of budget and management receives certification from the treasurer of state or the treasurer of state's designee that sufficient money has been credited or transferred to the bond service fund to meet in full all payments of debt service and financing costs due during the fiscal year from that fund.

Sec. 5735.26. The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by section 5735.25 of the Revised Code, amounts equal to the refunds certified by the tax commissioner pursuant to

sections 5735.142 and 5735.25 of the Revised Code, which shall be paid from such fund. ~~Receipts from the tax shall be used by the tax commissioner for the maintenance and administration of the motor fuel laws.~~ The treasurer of state shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund.

The balance of taxes collected under section 5735.25 of the Revised Code shall be credited as follows, after the credits to the tax refund fund, ~~and after deduction of the cost of administration of the motor fuel laws,~~ and after the ~~transfer~~ transfers to the waterways safety fund and motor fuel tax administration fund, and after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year:

(A) Sixty-seven and one-half per cent to the highway operating fund for distribution pursuant to division (B)(2) of section 5735.27 of the Revised Code;

(B) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(2) of such section;

(C) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(4) of such section;

(D) Seventeen and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(5) of such section.

Sec. 5735.291. (A) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by section 5735.29 of the Revised Code, amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.142 and 5735.29 of the Revised Code. The refunds provided for by sections 5735.142 and 5735.29 of the Revised Code shall be paid from such fund. The treasurer of state shall then transfer the amount

required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. ~~The~~

The specified portion of the balance of taxes collected under section 5735.29 of the Revised Code, after the credits to the tax refund fund, and ~~after the transfer~~ transfers to the waterways safety fund and the motor fuel tax administration fund, shall be credited to the gasoline excise tax fund. Subject to division (B) of this section, forty-two and eighty-six hundredths per cent of the specified portion shall be distributed among the municipal corporations within the state in accordance with division (A)(2) of section 5735.27 of the Revised Code, thirty-seven and fourteen hundredths per cent of the specified portion shall be distributed among the counties within the state in accordance with division (A)(3) of section 5735.27 of the Revised Code, and twenty per cent of the specified portion shall be combined with twenty per cent of any amounts transferred from the highway operating fund to the gasoline excise tax fund through biennial appropriations acts of the general assembly pursuant to the planned phase-in of a new source of funding for the state highway patrol, and shall be distributed among the townships within the state in accordance with division (A)(5)(b) of section 5735.27 of the Revised Code. Subject to division (B) of this section, the remainder of the tax levied by section 5735.29 of the Revised Code after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, shall be credited to the highway operating fund, which is hereby created in the state treasury and shall be used solely for the purposes enumerated in section 5735.29 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B)(1) Effective August 15, 2003, prior to the distribution from the

gasoline excise tax fund to municipal corporations of the forty-two and eighty-six hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(2) Effective August 15, 2003, prior to the distribution from the gasoline excise tax fund to counties of the thirty-seven and fourteen hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(3) Effective August 15, 2003, prior to crediting any revenue resulting from the tax levied by section 5735.29 of the Revised Code to the highway operating fund, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(C) As used in this section, "specified portion" means all of the following:

(1) Until August 15, 2003, none of the taxes collected under section 5735.29 of the Revised Code;

(2) Effective August 15, 2003, one-eighth of the balance of taxes collected under section 5735.29 of the Revised Code, after the credits to the tax refund fund and ~~after the transfer transfers~~ to the waterways safety fund and the motor fuel tax administration fund;

(3) Effective August 15, 2004, one-sixth of the balance of taxes described in division (C)(2) of this section;

(4) Effective August 15, 2005, three-sixteenths of the balance of taxes described in division (C)(2) of this section.

Sec. 5735.30. (A) For the purpose of providing funds to pay the state's share of the cost of constructing and reconstructing highways and eliminating railway grade crossings on the major thoroughfares of the state highway system and urban extensions thereof, to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund, to pay the interest, principal, and charges on bonds and other

obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, ~~and~~ to provide revenues for the purposes of sections 1547.71 to 1547.78 of the Revised Code, and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within the state, at the rate of one cent on each gallon so received, to be reported, computed, paid, collected, administered, enforced, refunded, and subject to the same exemptions and penalties as provided in this chapter of the Revised Code.

The tax imposed by this section shall be in addition to the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to this section. The refund provided for by ~~the first paragraph~~ division (A) of this section shall be paid from such fund. The treasurer shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. The balance of taxes for which the liability has become fixed prior to July 1, 1955, under this section, after the credit to the tax refund fund, shall be credited to the highway operating fund.

(C)(1) The moneys derived from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided and transfers required by division (B) of this section~~, shall, during each calendar year, be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year and during the next succeeding calendar year. From the date of the receipt of the certification required by section 5528.17 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which such certification is made,

all moneys received in the state treasury from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway obligations bond retirement fund created by section 5528.32 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.38 of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year and during the next succeeding calendar year. ~~From~~

(2) From the date of the receipt of the certification required by section 5528.38 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which such certification is made, all moneys received in the state treasury from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway operating fund, except as provided in ~~the next succeeding paragraph~~ division (C)(3) of this section.

(3) From the date of the receipt by the treasurer of state of certifications from the commissioners of the sinking fund, as required by sections 5528.18 and 5528.39 of the Revised Code, certifying that the moneys to the credit of the highway improvement bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all bonds and other obligations which may be issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, and to the credit of the highway obligations bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, the moneys derived from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway operating fund.

Sec. 5735.99. (A) Whoever violates division (F) of section 5735.02, division (D) of section 5735.021, division (B) of section 5735.063, division (B) of section 5735.064, or division (A)(2) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (E) of section 5735.06 of the Revised

Code is guilty of a felony of the fourth degree.

(C) Whoever violates section 5735.025 or division (A)(1) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree, if the tax owed or the fraudulent refund received is not greater than five hundred dollars. If the tax owed or the fraudulent refund received is greater than five hundred dollars but not greater than ten thousand dollars, the offender is guilty of a felony of the fourth degree; for each subsequent offense when the tax owed or the fraudulent refund received is greater than five hundred dollars but not greater than ten thousand dollars, the offender is guilty of a felony of the third degree. If the tax owed or the fraudulent refund received is greater than ten thousand dollars, the offender is guilty of a felony of the second degree.

(D) Whoever violates a provision of this chapter for which a penalty is not otherwise prescribed under this section is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates division (D)(5) of section 5735.19 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility

service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) ~~Industrial~~ Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, other than mobile telecommunications service after July 31, 2002, is or is to be provided ~~that originates or terminates in this state and is charged in the records of the telecommunications service vendor to the consumer's telephone number or account in this state, or that both originates and terminates in this state;~~, but does not include transactions by which ~~telecommunications service is paid for by using a prepaid authorization number or prepaid telephone calling card, or by which local telecommunications service is obtained from a coin-operated telephone and paid for by using coin;~~

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided.

(p) After July 31, 2002, mobile telecommunications service is or is to be provided ~~in this state~~ when that service is situated to this state pursuant to the

"Mobile Telecommunications Sourcing Act," P. Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended.

(q) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(r) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(s) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(t) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(u) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such

tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract. The transfer of copyrighted motion picture films for exhibition purposes is not a sale, except such films as are used solely for advertising purposes. ~~Other than as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.~~

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

~~(8) All transactions by which a prepaid authorization number or a prepaid telephone calling card is or is to be transferred~~ On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business.

Except as provided in this section, "sale" and "selling" do not include

transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the

purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim ~~exception~~ exemption under division ~~(E)(8)(B)(43)(f)~~ of this section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is:

~~(1) To~~ to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person;

~~(2) To incorporate the thing transferred as a material or a part, into~~ tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining, or to use or consume the thing transferred directly in producing a product for sale by mining, including without limitation the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, and persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas; directly in the rendition of a public utility service, except that the sales tax levied by section 5739.02 of the Revised Code shall be collected upon all meals, drinks, and food for human consumption sold upon Pullman and

railroad coaches. This paragraph does not exempt or except from "retail sale" or "sales at retail" the sale of tangible personal property that is to be ~~incorporated into a structure or improvement to real property.~~

(3) To hold the thing transferred as security for the performance of an ~~obligation of the vendor;~~

(4) To use or consume the thing transferred in the process of ~~reclamation as required by Chapters 1513. and 1514. of the Revised Code;~~

(5) To resell, hold, use, or consume the thing transferred as evidence of ~~a contract of insurance;~~

(6) ~~To use or consume the thing directly in commercial fishing;~~

(7) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, ~~magazines distributed as controlled circulation publications;~~

(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other ~~productions or reproductions of written or graphic matter;~~

(9) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible ~~personal property for sale;~~

(10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its ~~purchase from the tax imposed by section 5739.02 of the Revised Code;~~

(11) To use the thing transferred as qualified research and development ~~equipment;~~

(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(e) of this section and "direct marketing" has the same ~~meaning as in division (B)(36) of section 5739.02 of the Revised Code.~~

(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part

of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the ~~provision of which is defined as a sale under division (B)(7) of this section;~~

(14) To use or consume the thing transferred in the production of a ~~newspaper for distribution to the public;~~

~~(15) To use tangible personal property to perform a service listed in division (B)(3) of this section, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.~~

As used in division (E) of this section, "thing" includes all transactions ~~included in divisions (B)(3)(a), (b), and (c) of this section.~~

Sales conducted through a coin-operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided ~~as part of the transaction, are not retail sales or sales at retail.~~

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means ~~the aggregate value in money of anything paid or delivered,~~ or promised to be paid or delivered, in the complete performance of a retail sale, without any deduction on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the retail sale consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of the rental or lease, without any deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (H)(4) of this section, the sales tax shall be calculated and collected by the lessor on each payment made by the lessee. "Price" does not include the consideration received as a deposit refundable to the consumer upon

return of a beverage container, the consideration received as a deposit on a carton or case that is used for such returnable containers, or the consideration received as a refundable security deposit for the use of tangible personal property to the extent that it actually is refunded, if the consideration for such refundable deposit is separately stated from the consideration received or to be received for the tangible personal property transferred in the retail sale. Such separation must appear in the sales agreement or on the initial invoice or initial billing rendered by the vendor to the consumer. "Price" also does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the vendor. Price is the amount received inclusive of the tax, provided the vendor establishes to the satisfaction of the tax commissioner that the tax was added to the price. When the price includes both a charge for tangible personal property and a charge for providing a service and the sale of the property and the charge for the service are separately taxable, or have a separately determinable tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.

~~The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized in section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.~~

~~As used in division (H)(1) of this section, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:~~

- ~~(i) The vendor's cost of the property sold;~~
- ~~(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, and any other expense of the vendor;~~
- ~~(iii) Charges by the vendor for any services necessary to complete the sale;~~

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) The value of exempt tangible personal property given to the consumer where taxable and exempt tangible personal property have been bundled together and sold by the vendor as a single product or piece of merchandise.

(b) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

~~(4) In the case of the lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the sales~~

~~tax shall be collected by the vendor at the time the lease is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the sales tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due.~~

~~As used in divisions (H)(3) and (4) of this section, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.~~

In the case of a transaction in which telecommunications service, mobile telecommunications service, or cable television service is sold in a bundled transaction with other distinct services for a single price that is not itemized, the entire price is subject to the taxes levied under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code, unless the vendor can reasonably identify the nontaxable portion from its books and records kept in the regular course of business. Upon the request of the consumer, the vendor shall disclose to the consumer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on an aggregated basis. The burden of proving any nontaxable charges is on the vendor.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's

taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property ~~which~~ that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in providing the rendition of a public utility service ~~as defined in this division~~.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are

changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to

computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the

following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA) "Telecommunications service" means the transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media. "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, ~~but~~ and other related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. "Telecommunications service" does not include any of the following:

(1) ~~Sales of incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, to the person contracting for the receipt of that service;~~

(2) ~~Sales of private communications service to the person contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges;~~

(3) Sales of telecommunications service billed to persons before January 1, 2004, by telephone companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;

~~(4)~~(2) Sales of telecommunications service to a provider of telecommunications service or of mobile telecommunications service, including access services, for use in providing telecommunications service

or mobile telecommunications service;

~~(5)~~(3) Value-added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;

~~(6)~~(4) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code;

~~(7)~~(5) After July 31, 2002, mobile telecommunications service.

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ articles of clothing, ~~or other fabric items~~ that belong to others and ~~are used in a trade or business~~ supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does

not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service. "Employment service" does not include:

- (1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.
- (2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of

flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) ~~"Prepaid authorization number" means a numeric or alphanumeric combination that represents a prepaid account that can be used by the account holder solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.~~

~~(2) "Prepaid telephone calling card" means a tangible item that contains a prepaid authorization number that can be used solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.~~

(VV) "Lease" or "rental" means any transfer ~~for a consideration~~ of the

possession or control of and right to use, but not title to, tangible personal property for a fixed period of time greater than thirty days or for an open-ended period of time with a minimum fixed period of more than thirty days or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before the effective date of this amendment.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(WW)(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(XX)(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or

broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is

modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) Prior to July 1, 2004, "food" means cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.

(2) On and after July 1, 2004, "food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(3) As used in division (EEE)(2) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(3)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Sec. 5739.011. (A) As used in this section:

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale.

(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

(B) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;

(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;

(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;

(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;

(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;

(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;

(11) Parts, components, and repair and installation services for items described in division (B) of this section.

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:

(1) Tangible personal property used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;

(2) Tangible personal property used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form;

(3) Tangible personal property used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility;

(4) Tangible personal property that is or is to be incorporated into realty;

(5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;

(6) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation;

(7) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation;

(8) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility;

(9) Motor vehicles registered for operation on public highways.

(D) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale

made in this state.

(A)(1) ~~The tax shall be collected pursuant to the schedules as provided in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five per cent. The~~

~~The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.~~

~~In (2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.~~

~~A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.~~

~~(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of rentals for the use of the thing transferred the lease or rental of tangible personal property, the tax, as regards those rentals, shall be measured by the installments of those rentals that lease or rental.~~

~~(4) In the case of a sale of a physical fitness facility service or recreation and sports club service defined under division (MM) or (NN) of section~~

~~5739.01 of the Revised Code~~, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a ~~telephone or telegraph~~ company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal

Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) The Except for transactions that are sales under division (B)(3)(s) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the

Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the

organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division ~~(E)(2)(B)(43)(a)~~ or ~~(9)(g)~~ of this section 5739.01 ~~of the Revised Code~~, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division ~~(B)(16) of this section~~, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being, dispensed ~~by a licensed~~ pharmacist upon the order of a licensed health professional authorized to prescribe drugs to a human being, as the term "licensed health professional authorized to prescribe drugs" is defined in section 4729.01 of the Revised Code pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with ~~end-stage renal~~ medical disease; hospital beds when purchased for use by persons with medical problems for medical purposes; and medical oxygen and medical oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19)(a) Sales of ~~artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of the human body; crutches or other devices to aid human perambulation; and items of tangible personal property used to supplement impaired functions of the human body such as respiration, hearing, or elimination;~~

(b) Sales of ~~wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs, other than transportation conducted in connection with the sale or delivery of wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a disability to access or operate the motor vehicle. As used in this division, "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition.~~

(c) ~~No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.~~

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and

emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state upon the presentation of an affidavit executed in this state by the nonresident purchaser affirming that the purchaser is a nonresident of this state, that possession of the motor vehicle is taken in this state for the sole purpose of immediately removing it from this state, that the motor vehicle will be permanently titled and registered in another state, and that the motor vehicle will not be used in this state;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation

pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

- (a) To prepare food for human consumption for sale;
 - (b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;
 - (c) To clean tangible personal property used to prepare or serve food for human consumption for sale.
- (28) Sales of animals by nonprofit animal adoption services or county humane societies;
- (29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;
- (30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;
- (31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;
- (32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire;
- (33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;
- (34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division (B)(34) of this section shall be in lieu of all other ~~exceptions~~ exemptions under division ~~(E)(2)(B)(43)(a)~~ of this section 5739.01 of the Revised Code to which a ~~telecommunications service~~ the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.

(36)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(36)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(36) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(37) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(38) ~~The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the vanpool ridesharing~~

~~arrangement when the vendor is selling the vehicle pursuant to a contract between the vendor and the department of transportation;~~

(39) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

~~(40)~~(39) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

~~(41)~~(40) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

~~(42)~~(41) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other ~~exceptions~~ exemptions in division ~~(E)(2)(B)(43)(a)~~ of this section 5739.01 of the Revised Code to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(42) Sales to a person providing services under division (B)(3)(s) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(43) Sales where the purpose of the purchaser is to do any of the

following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(36) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (B)(43) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(44) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(45) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(46) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed

or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

~~As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. It does not include: spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.~~

~~(C)~~(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.021. (A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county may levy a tax at the rate of not more than one per

cent at any multiple of one-fourth of one per cent upon every retail sale made in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase the rate of an existing tax to not more than one per cent at any multiple of one-fourth of one per cent.

The tax shall be levied and the rate increased pursuant to a resolution of the board of county commissioners. The resolution shall state the purpose for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each such purpose. The rate or amount may be different for each year the tax is to be levied, but the rates or amounts actually apportioned each year shall not be different from that stated in the resolution for that year. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for such necessity. ~~A~~ The board shall deliver a certified copy of the resolution ~~shall be delivered to the tax commissioner either personally or by certified mail, not later than the sixtieth~~ sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of the calendar quarter.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

Except as provided in division (B)(3) of this section, the resolution shall ~~become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption,~~ be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code.

If a petition for a referendum is filed, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall

notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of a calendar quarter following the expiration of sixty-five days from the date the ~~petition was declared invalid by~~ commissioner receives notice from the board of elections ~~that the petition is invalid~~.

(B)(1) A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under this division shall go into effect unless approved by a majority of those voting upon it, and, except as provided in division (B)(3) of this section, shall become effective on the first day of a calendar quarter following the expiration of sixty-five days from the date ~~of notice to~~ the tax commissioner ~~by~~ receives notice from the board of elections of the affirmative vote.

(2) A resolution that is adopted as an emergency measure shall go into effect as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after a certified copy of the resolution is transmitted to the board of elections. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date ~~it received the~~ board and tax commissioner receive notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased

rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(3) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such ~~sales~~ a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one pursuant to division (H) of this section.~~

(C) If a resolution is rejected at a referendum or if a resolution adopted after January 1, 1982, as an emergency measure is repealed by the electors pursuant to division (B)(2) of this section or section 5739.022 of the Revised Code, then for one year after the date of the election at which the resolution was rejected or repealed the board of county commissioners may not adopt any resolution authorized by this section as an emergency measure.

(D) The board of county commissioners, at any time while a tax levied under this section is in effect, may by resolution reduce the rate at which the tax is levied to a lower rate authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day after ~~the certification~~ a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in

that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

Sec. 5739.022. (A) The question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax that was adopted as an emergency measure pursuant to section 5739.021 or 5739.026 of the Revised Code may be initiated by filing with the board of elections of the county not less than seventy-five days before the general election in any year a petition requesting that an election be held on the question. The question of repealing an increase in the rate of the county permissive tax shall be submitted to the electors as a separate question from the repeal of the tax in effect prior to the increase in the rate. Any petition filed under this section shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that the petition is valid, the board of elections shall submit the question to the electors of the county at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. The board of elections shall notify the tax commissioner, in writing, of the election upon determining that the petition is valid. Notice of the election shall also be published in a newspaper of general circulation in the district once a week for four consecutive weeks prior to the election, stating the purpose, the time, and the place of the election. The form of the ballot cast at the election shall be prescribed by the secretary of state; however, the ballot

question shall read, "shall the tax (or, increase in the rate of the tax) be retained?"

	Yes
	No

The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the ~~month~~ calendar quarter following the expiration of ~~thirty~~ sixty-five days after the date it receives the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (C) of this section.

Sec. 5739.023. (A)(1) For the purpose of providing additional general revenues for a transit authority and paying the expenses of administering such levy, any transit authority as defined in division (U) of section 5739.01 of the Revised Code may levy a tax upon every retail sale made in the

territory of the transit authority, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, at a rate of not more than one and one-half per cent at any multiple of one-fourth of one per cent and may increase the existing rate of tax to not more than one and one-half per cent at any multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution of the legislative authority of the transit authority and a certified copy of the resolution shall be delivered by the fiscal officer to the board of elections as provided in section 3505.071 of the Revised Code and to the tax commissioner. The resolution shall specify the number of years for which the tax is to be in effect or that the tax is for a continuing period of time, and the date of the election on the question of the tax pursuant to section 306.70 of the Revised Code. The board of elections shall certify the results of the election to the transit authority and tax commissioner.

(2) Except as provided in division (C) of this section, the tax levied by the resolution shall become effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the date the tax commissioner receives from the board of elections the certification of the results of the election on the question of the tax ~~by the board of elections~~.

(B) The legislative authority may, at any time while the tax is in effect, by resolution fix the rate of the tax at any rate authorized by this section and not in excess of that approved by the voters pursuant to section 306.70 of the Revised Code. Except as provided in division (C) of this section, any change in the rate of the tax shall be made effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the date the tax commissioner receives the certification of the resolution to the tax commissioner; provided, that in any case where bonds, or notes in anticipation of bonds, of a regional transit authority have been issued under section 306.40 of the Revised Code without a vote of the electors while the tax proposed to be reduced was in effect, the board of trustees of the regional transit authority shall continue to levy and collect under authority of the original election authorizing the tax a rate of tax that the board of trustees reasonably estimates will produce an amount in that year equal to the amount of principal of and interest on those bonds as is payable in that year.

(C) Upon receipt from the board of elections of the certification of the results of the election required by division (A) of this section, or from the legislative authority of the certification of a resolution under division (B) of this section, the tax commissioner shall provide notice of a tax rate change

in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one~~ pursuant to division (C) of this section.

~~(D)~~(E) The tax on every retail sale subject to a tax levied pursuant to this section is in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.026 of the Revised Code.

~~(E)~~(F) The additional tax levied by the transit authority shall be collected pursuant to section 5739.025 of the Revised Code.

~~(F)~~(G) Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a transit authority under the constitution of the United States or the constitution of this state.

~~(G)~~(H) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code, if a ballot question is approved by voters pursuant to that section.

Sec. 5739.025. As used in this section, "local tax" means a tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows:

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.16</u>	<u>1¢</u>
<u>.17</u>	<u>.33</u>	<u>2¢</u>
<u>.34</u>	<u>.50</u>	<u>3¢</u>

<u>.51</u>	<u>.66</u>	<u>4¢</u>
<u>.67</u>	<u>.83</u>	<u>5¢</u>
<u>.84</u>	<u>1.00</u>	<u>6¢</u>

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.20	1¢
.21	.40	2¢
.41	.60	3¢
.61	.80	4¢
.81	1.00	5¢

If the price exceeds one dollar, the tax is five cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twenty cents, the amount of tax is five cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twenty cents, the amount of tax is five cents for each one dollar plus the amount of tax for prices twenty-one cents through ninety-nine cents in accordance with the schedule above.

(B) The On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

<u>If the price is at least</u>	<u>But not more than</u>	<u>The amount of the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.16</u>	<u>1¢</u>
<u>.17</u>	<u>.32</u>	<u>2¢</u>
<u>.33</u>	<u>.48</u>	<u>3¢</u>

<u>.49</u>	<u>.64</u>	<u>4¢</u>
<u>.65</u>	<u>.80</u>	<u>5¢</u>
<u>.81</u>	<u>.96</u>	<u>6¢</u>
<u>.97</u>	<u>1.12</u>	<u>7¢</u>
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.30</u>	<u>2¢</u>
<u>.31</u>	<u>.46</u>	<u>3¢</u>
<u>.47</u>	<u>.61</u>	<u>4¢</u>
<u>.62</u>	<u>.76</u>	<u>5¢</u>
<u>.77</u>	<u>.92</u>	<u>6¢</u>
<u>.93</u>	<u>1.07</u>	<u>7¢</u>

<u>1.08</u>	<u>1.23</u>	<u>8¢</u>
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(3) When the combined rate of state and local tax is six and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.29</u>	<u>2¢</u>
<u>.30</u>	<u>.44</u>	<u>3¢</u>
<u>.45</u>	<u>.59</u>	<u>4¢</u>
<u>.60</u>	<u>.74</u>	<u>5¢</u>
<u>.75</u>	<u>.88</u>	<u>6¢</u>
<u>.89</u>	<u>1.03</u>	<u>7¢</u>
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>

<u>3.41</u>	<u>3.55</u>	<u>24¢</u>
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.28</u>	<u>2¢</u>
<u>.29</u>	<u>.42</u>	<u>3¢</u>
<u>.43</u>	<u>.57</u>	<u>4¢</u>
<u>.58</u>	<u>.71</u>	<u>5¢</u>
<u>.72</u>	<u>.85</u>	<u>6¢</u>
<u>.86</u>	<u>1.00</u>	<u>7¢</u>

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of state and local tax is seven and one-fourth per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.27</u>	<u>2¢</u>
<u>.28</u>	<u>.41</u>	<u>3¢</u>
<u>.42</u>	<u>.55</u>	<u>4¢</u>
<u>.56</u>	<u>.68</u>	<u>5¢</u>

<u>.69</u>	<u>.82</u>	<u>6¢</u>
<u>.83</u>	<u>.96</u>	<u>7¢</u>
<u>.97</u>	<u>1.10</u>	<u>8¢</u>
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.26</u>	<u>2¢</u>

<u>.27</u>	<u>.40</u>	<u>3¢</u>
<u>.41</u>	<u>.53</u>	<u>4¢</u>
<u>.54</u>	<u>.65</u>	<u>5¢</u>
<u>.66</u>	<u>.80</u>	<u>6¢</u>
<u>.81</u>	<u>.93</u>	<u>7¢</u>
<u>.94</u>	<u>1.06</u>	<u>8¢</u>
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(7) When the combined rate of state and local tax is seven and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.25</u>	<u>2¢</u>
<u>.26</u>	<u>.38</u>	<u>3¢</u>
<u>.39</u>	<u>.51</u>	<u>4¢</u>
<u>.52</u>	<u>.64</u>	<u>5¢</u>
<u>.65</u>	<u>.77</u>	<u>6¢</u>
<u>.78</u>	<u>.90</u>	<u>7¢</u>
<u>.91</u>	<u>1.03</u>	<u>8¢</u>
<u>1.04</u>	<u>1.16</u>	<u>9¢</u>
<u>1.17</u>	<u>1.29</u>	<u>10¢</u>
<u>1.30</u>	<u>1.41</u>	<u>11¢</u>
<u>1.42</u>	<u>1.54</u>	<u>12¢</u>
<u>1.55</u>	<u>1.67</u>	<u>13¢</u>
<u>1.68</u>	<u>1.80</u>	<u>14¢</u>
<u>1.81</u>	<u>1.93</u>	<u>15¢</u>
<u>1.94</u>	<u>2.06</u>	<u>16¢</u>

<u>2.07</u>	<u>2.19</u>	<u>17¢</u>
<u>2.20</u>	<u>2.32</u>	<u>18¢</u>
<u>2.33</u>	<u>2.45</u>	<u>19¢</u>
<u>2.46</u>	<u>2.58</u>	<u>20¢</u>
<u>2.59</u>	<u>2.70</u>	<u>21¢</u>
<u>2.71</u>	<u>2.83</u>	<u>22¢</u>
<u>2.84</u>	<u>2.96</u>	<u>23¢</u>
<u>2.97</u>	<u>3.09</u>	<u>24¢</u>
<u>3.10</u>	<u>3.22</u>	<u>25¢</u>
<u>3.23</u>	<u>3.35</u>	<u>26¢</u>
<u>3.36</u>	<u>3.48</u>	<u>27¢</u>
<u>3.49</u>	<u>3.61</u>	<u>28¢</u>
<u>3.62</u>	<u>3.74</u>	<u>29¢</u>
<u>3.75</u>	<u>3.87</u>	<u>30¢</u>
<u>3.88</u>	<u>4.00</u>	<u>31¢</u>

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.25</u>	<u>2¢</u>
<u>.26</u>	<u>.37</u>	<u>3¢</u>
<u>.38</u>	<u>.50</u>	<u>4¢</u>
<u>.51</u>	<u>.62</u>	<u>5¢</u>
<u>.63</u>	<u>.75</u>	<u>6¢</u>
<u>.76</u>	<u>.87</u>	<u>7¢</u>
<u>.88</u>	<u>1.00</u>	<u>8¢</u>

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents

but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

(9) When the combined rate of state and local tax is eight and one-fourth per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.24</u>	<u>2¢</u>
<u>.25</u>	<u>.36</u>	<u>3¢</u>
<u>.37</u>	<u>.48</u>	<u>4¢</u>
<u>.49</u>	<u>.60</u>	<u>5¢</u>
<u>.61</u>	<u>.72</u>	<u>6¢</u>
<u>.73</u>	<u>.84</u>	<u>7¢</u>
<u>.85</u>	<u>.96</u>	<u>8¢</u>
<u>.97</u>	<u>1.09</u>	<u>9¢</u>
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>

<u>3.76</u>	<u>3.87</u>	<u>32¢</u>
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.23</u>	<u>2¢</u>
<u>.24</u>	<u>.35</u>	<u>3¢</u>
<u>.36</u>	<u>.47</u>	<u>4¢</u>
<u>.48</u>	<u>.58</u>	<u>5¢</u>
<u>.59</u>	<u>.70</u>	<u>6¢</u>
<u>.71</u>	<u>.82</u>	<u>7¢</u>
<u>.83</u>	<u>.94</u>	<u>8¢</u>
<u>.95</u>	<u>1.05</u>	<u>9¢</u>
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but by not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the

amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of state and local tax is eight and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.22</u>	<u>2¢</u>
<u>.23</u>	<u>.34</u>	<u>3¢</u>
<u>.35</u>	<u>.45</u>	<u>4¢</u>
<u>.46</u>	<u>.57</u>	<u>5¢</u>
<u>.58</u>	<u>.68</u>	<u>6¢</u>
<u>.69</u>	<u>.80</u>	<u>7¢</u>
<u>.81</u>	<u>.91</u>	<u>8¢</u>
<u>.92</u>	<u>1.02</u>	<u>9¢</u>
<u>1.03</u>	<u>1.14</u>	<u>10¢</u>
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>

<u>3.78</u>	<u>3.88</u>	<u>34¢</u>
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus the amount of tax for prices twenty-three cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.22</u>	<u>2¢</u>
<u>.23</u>	<u>.33</u>	<u>3¢</u>
<u>.34</u>	<u>.44</u>	<u>4¢</u>
<u>.45</u>	<u>.55</u>	<u>5¢</u>
<u>.56</u>	<u>.66</u>	<u>6¢</u>
<u>.67</u>	<u>.77</u>	<u>7¢</u>
<u>.78</u>	<u>.88</u>	<u>8¢</u>
<u>.89</u>	<u>1.00</u>	<u>9¢</u>

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance with the schedule above.

(C) On and after July 1, 2005, and on and before December 31, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the total rate of local tax is one-fourth per cent:

<u>If the price</u>	<u>But not</u>	<u>The amount</u>

is at least	more than	of the tax is
\$.01	\$.15	No tax
.16	.19	1¢
.20	.38	2¢
.39	.57	3¢
.58	.76	4¢
.77	.95	5¢
.96	1.14	6¢
1.15	1.33	7¢
1.34	1.52	8¢
1.53	1.71	9¢
1.72	1.90	10¢
1.91	2.09	11¢
2.10	2.28	12¢
2.29	2.47	13¢
2.48	2.66	14¢
2.67	2.85	15¢
2.86	3.04	16¢
3.05	3.23	17¢
3.24	3.42	18¢
3.43	3.61	19¢
3.62	3.80	20¢
3.81	4.00	21¢

If the price exceeds four dollars, the tax is twenty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of tax is twenty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than nineteen cents, the amount of tax is twenty-one cents for each four dollars plus the amount of tax for prices twenty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of local tax is one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.18	1¢
.19	.36	2¢
.37	.54	3¢
.55	.72	4¢
.73	.90	5¢
.91	1.09	6¢

1.10	1.27	7¢
1.28	1.46	8¢
1.47	1.64	9¢
1.65	1.82	10¢
1.83	2.00	11¢

If the price exceeds two dollars, the tax is eleven cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eighteen cents, the amount of tax is eleven cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eighteen cents, the amount of tax is eleven cents for each two dollars plus the amount of tax for prices nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(3) When the combined rate of local tax is three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.52	3¢
.53	.69	4¢
.70	.86	5¢
.87	1.04	6¢
1.05	1.21	7¢
1.22	1.39	8¢
1.40	1.56	9¢
1.57	1.73	10¢
1.74	1.91	11¢
1.92	2.08	12¢
2.09	2.26	13¢
2.27	2.43	14¢
2.44	2.60	15¢
2.61	2.78	16¢
2.79	2.95	17¢
2.96	3.13	18¢
3.14	3.30	19¢
3.31	3.47	20¢
3.48	3.65	21¢
3.66	3.82	22¢
3.83	4.00	23¢

If the price exceeds four dollars, the tax is twenty-three cents on each

four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of local tax is one per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.50	3¢
.51	.67	4¢
.68	.83	5¢
.84	1.00	6¢

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of local tax is one and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.16	1¢
.17	.32	2¢
.33	.48	3¢
.49	.64	4¢
.65	.80	5¢
.81	.96	6¢
.97	1.12	7¢
1.13	1.28	8¢
1.29	1.44	9¢
1.45	1.60	10¢
1.61	1.76	11¢
1.77	1.92	12¢

1.93	2.08	13¢
2.09	2.24	14¢
2.25	2.40	15¢
2.41	2.56	16¢
2.57	2.72	17¢
2.73	2.88	18¢
2.89	3.04	19¢
3.05	3.20	20¢
3.21	3.36	21¢
3.37	3.52	22¢
3.53	3.68	23¢
3.69	3.84	24¢
3.85	4.00	25¢

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of local tax is one and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.30	2¢
.31	.46	3¢
.47	.61	4¢
.62	.76	5¢
.77	.92	6¢
.93	1.07	7¢
1.08	1.23	8¢
1.24	1.38	9¢
1.39	1.53	10¢
1.54	1.69	11¢
1.70	1.84	12¢
1.85	2.00	13¢

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more

than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(7) When the combined rate of local tax is one and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.29	2¢
.30	.44	3¢
.45	.59	4¢
.60	.74	5¢
.75	.88	6¢
.89	1.03	7¢
1.04	1.18	8¢
1.19	1.33	9¢
1.34	1.48	10¢
1.49	1.62	11¢
1.63	1.77	12¢
1.78	1.92	13¢
1.93	2.07	14¢
2.08	2.22	15¢
2.23	2.37	16¢
2.38	2.51	17¢
2.52	2.66	18¢
2.67	2.81	19¢
2.82	2.96	20¢
2.97	3.11	21¢
3.12	3.25	22¢
3.26	3.40	23¢
3.41	3.55	24¢
3.56	3.70	25¢
3.71	3.85	26¢
3.86	4.00	27¢

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If

the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of local tax is two per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.28	2¢
.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(9) When the combined rate of local tax is two and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.27	2¢
.28	.41	3¢
.42	.55	4¢
.56	.68	5¢
.69	.82	6¢
.83	.96	7¢
.97	1.10	8¢
1.11	1.24	9¢
1.25	1.37	10¢
1.38	1.51	11¢
1.52	1.65	12¢
1.66	1.79	13¢
1.80	1.93	14¢
1.94	2.06	15¢
2.07	2.20	16¢

2.21	2.34	17¢
2.35	2.48	18¢
2.49	2.62	19¢
2.63	2.75	20¢
2.76	2.89	21¢
2.90	3.03	22¢
3.04	3.17	23¢
3.18	3.31	24¢
3.32	3.44	25¢
3.45	3.58	26¢
3.59	3.72	27¢
3.73	3.86	28¢
3.87	4.00	29¢

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of local tax is two and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.26	2¢
.27	.40	3¢
.41	.53	4¢
.54	.65	5¢
.66	.80	6¢
.81	.93	7¢
.94	1.06	8¢
1.07	1.20	9¢
1.21	1.33	10¢
1.34	1.46	11¢
1.47	1.60	12¢
1.61	1.73	13¢
1.74	1.86	14¢

1.87

2.00

15¢

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of local tax is two and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.25	2¢
.26	.38	3¢
.39	.51	4¢
.52	.64	5¢
.65	.77	6¢
.78	.90	7¢
.91	1.03	8¢
1.04	1.16	9¢
1.17	1.29	10¢
1.30	1.41	11¢
1.42	1.54	12¢
1.55	1.67	13¢
1.68	1.80	14¢
1.81	1.93	15¢
1.94	2.06	16¢
2.07	2.19	17¢
2.20	2.32	18¢
2.33	2.45	19¢
2.46	2.58	20¢
2.59	2.70	21¢
2.71	2.83	22¢
2.84	2.96	23¢
2.97	3.09	24¢
3.10	3.22	25¢
3.23	3.35	26¢
3.36	3.48	27¢
3.49	3.61	28¢

3.62	3.74	29¢
3.75	3.87	30¢
3.88	4.00	31¢

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of local tax is three per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

~~(C)~~(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A) ~~and~~, (B), ~~and~~ (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections ~~5739.01~~ 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022,

and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. A vendor may elect to compute the tax due on a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider the method prescribed by this section that was used by the vendor in determining and collecting the tax due under this chapter on taxable transactions. If the vendor correctly collects and remits the tax due under this chapter in accordance with the schedules in divisions (A) ~~and~~, (B), and (C) of this section or in accordance with the computation prescribed in division ~~(C)~~(D) or (E) of this section, the commissioner shall not assess any additional tax on those transactions.

(G)(1) With respect to a sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program, including all accessories attached to such aircraft, the tax shall be calculated pursuant to divisions (A) to (E) of this section, provided that the tax commissioner shall modify those calculations so that the maximum tax on each program aircraft is eight hundred dollars. In the case of a sale of a fractional interest that is less than one hundred per cent of the program aircraft, the tax charged on the transaction shall be eight hundred dollars multiplied by a fraction, the numerator of which is the percentage of ownership or possession in the aircraft being purchased in the transaction, and the denominator of which is one hundred per cent.

(2) Notwithstanding any other provision of law to the contrary, the tax calculated under division (G)(1) of this section and paid with respect to the sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program shall be credited to the general revenue fund.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may

increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for

allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive

weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall ~~become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption,~~ be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), or (9) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not

so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than seventy-five days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall

not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the ~~certification of the results of the election to date~~ the board of county commissioners and the tax commissioner by receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date ~~of the notice to~~ the tax commissioner by receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question

of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date ~~at the board and tax commissioner~~ received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter ~~specified in the resolution, but not sooner than the first day of the month~~ next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution is certified to the tax commissioner~~ receives a certified copy of the resolution from the board.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one~~ pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all

affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.03. Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(A) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(B) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must furnish to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be signed by both the contractor and the contractee and such contractee shall be deemed to be the consumer of all items purchased under such claim of exemption in the event it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by regulation prescribes. If no certificate is furnished or obtained within the period for filing the return for the period in which such sale is consummated, it shall be presumed that the tax applies. ~~The~~ Failure to have so furnished, or to have so obtained, a certificate shall not prevent a vendor or consumer from

establishing that the sale is not ~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of the giving of notice by the commissioner of intention to levy an ~~assasment~~ assessment, in which event the tax shall not apply.

Certificates need not be obtained nor furnished where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall furnish to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or furnishes to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without

the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds to the consumer the full price of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the full amount of the tax paid.

Sec. 5739.032. (A) If the total amount of tax required to be paid by a permit holder under section 5739.031 of the Revised Code for any calendar year ~~indicated in the following schedule~~ equals or exceeds ~~the amounts prescribed for that year in the schedule~~ seventy-five thousand dollars, the permit holder shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

Year	1992	1993 through 1999	2000 and thereafter
Tax	\$1,200,000	\$600,000	\$60,000
payment			

If a permit holder's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the permit holder is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each permit holder required to remit taxes by electronic funds transfer of the permit holder's obligation to do so, shall maintain an updated list of those permit holders, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a permit holder subject to this section to remit taxes by electronic funds transfer does not relieve the permit holder of its obligation to remit taxes by electronic funds transfer.

(B) Permit holders required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, a permit holder shall remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the permit holder's total tax liability for the same month in the preceding calendar year.

(2) On or before the twenty-third day of each month, a permit holder shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) of this section.

The payment of taxes by electronic funds transfer does not affect a permit holder's obligation to file the monthly return as required under section 5739.031 of the Revised Code.

(C) A permit holder required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the permit holder from remittance by electronic funds transfer for good cause shown for the period of time requested by the permit holder or for a portion of that period. The treasurer of state shall notify the tax commissioner and the permit holder of the treasurer of state's decision as soon as is practicable.

(D)(1) If a permit holder that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a permit holder required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under division (D)(1) or (2) of this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a permit holder that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be imposed upon the remittance of any subsequent tax payment that the permit holder remits by some means other than electronic funds transfer.

Sec. 5739.033. The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the situs of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 of the Revised Code.

(A) Except as otherwise provided in this section, division (C) of section 5739.031, and section 5739.034 of the Revised Code, the situs of all sales is the vendor's place of business.

(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business.

(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or

takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received.

(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), ~~or (o), (r), (s), or (t)~~ of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.

(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property.

(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made.

(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received.

(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), ~~or (m), (q), or (u)~~ of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or received.

(F) ~~Except as provided in division (I) or (J) of this section:~~

~~(1) If the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs of the sale is the location of the telephone number or account as reflected in the records of the vendor.~~

~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated.~~

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located.

~~(H)~~(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the

Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling.

~~(F)~~(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.

Sec. 5739.034. (A) As used in this section:

(1) "Air-to-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(3) "Customer" means the person or entity that contracts with a seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or of mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(4) "End user" means the person who utilizes the telecommunications service. In the case of a person other than an individual, "end user" means the individual who utilizes the service on behalf of the person.

(5) "Home service provider" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended.

(6) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(7) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. "Post-paid calling service" includes a telecommunications service that would be a prepaid calling service, but for the fact that it is not exclusively a telecommunications service.

(8) "Prepaid calling service" means the right to access exclusively a telecommunications service that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(9) "Service address" means:

(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.

(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.

(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.

(D) Except for the telecommunications services described in division (E) of this section, a sale of telecommunications services sold on a basis

other than a call-by-call basis shall be sourced to the customer's place of primary use.

(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows:

(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service made prior to January 1, 2004, shall be sourced under division (H) of section 5739.033 of the Revised Code. On and after January 1, 2004, a sale of mobile telecommunications service that is a prepaid telecommunications service shall be sourced under division (A)(5) of section 5739.033 of the Revised Code, but in lieu of sourcing the sale of the service under that section, it may be sourced to the location associated with the mobile telephone number.

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), ~~and (4)~~, and (5) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the

remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as provided in division (A)(2), (3), ~~or (4)~~, or (5) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board

of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by

initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be

furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the

bonds.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(C) For the purpose of making the payments authorized by section 307.695 of the Revised Code to construct and equip a convention center in the county and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been pledged pursuant to that section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the

Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative

authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the

legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes establishments in which fewer than five rooms are used for the accommodation of guests. The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of

the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement

described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

Sec. 5739.10. (A) In addition to the tax levied ~~in~~ by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure the same objectives specified in ~~said those~~ sections, there is hereby levied upon the privilege of engaging in the business of making retail sales, an excise tax of six per cent on and after July 1, 2003, and on and before June 30, 2005, and an excise tax of five per cent on and after July 1, 2005, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts derived from all retail sales, except ~~retail sales under sixteen cents and those to which the excise tax imposed by section 5739.02 of the Revised Code is made inapplicable by division (B) of said that~~ section.

(B) For the purpose of this section, no vendor shall be required to maintain records of ~~individual retail sales of tangible personal property under sixteen cents or sales of food for human consumption off the premises where sold, and no assessment shall be made against any vendor for retail sales of less than sixteen cents or for sales of food for human consumption off the premises where sold, solely because the vendor has no records of, or has inadequate records of, retail sales of less than sixteen cents or such sales of food for human consumption off the premises where sold; provided that where a vendor does not have adequate records of receipts from his retail sales in excess of fifteen cents or the vendor's sales of food for human consumption on the premises where sold, the tax commissioner may refuse to accept the vendor's return and, upon the basis of test checks of the vendor's business for a representative period, and other information relating to the sales made by such vendor, determine the proportion that taxable retail sales bear to all his of the vendor's retail sales. The tax imposed by this section shall be determined by deducting from the sum representing five or six per cent, as applicable under division (A) of this section, or, in the case~~

of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts from such retail sales, the amount of tax paid to the state or to a clerk of a court of common pleas. The section does not affect any duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the liability of any consumer to pay any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.12. (A) Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month, on forms prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The commissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liabilities on one consolidated return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties that may become due under this chapter and may adopt rules relating thereto. Such return shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The return shall be considered filed when received by the tax commissioner, and the payment shall be considered made when received by the tax commissioner or when credited to an account designated by the treasurer of state or the tax commissioner.

(B) If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to a the following discount of three-fourths:

(1) On and after July 1, 2003, and on and before June 30, 2005, nine-tenths of one per cent of the amount shown to be due on the return;

(2) On and after July 1, 2005, three-fourths of one per cent of the amount shown to be due on the return, but a.

A vendor that has selected a certified service provider as its agent shall not be entitled to the discount. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the ~~three-fourths of one per cent~~ applicable discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax.

(C)(1) Upon application to the commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the tax commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor for a period of not less than six months nor more than two years immediately preceding the filing of the application. Vendors who agree to the above conditions shall make and file an annual or semiannual reconciliation return, as prescribed by the commissioner. The reconciliation return shall be filed by mailing or delivering it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided in this section. Remittance shall be made payable to the treasurer of state. Failure of a vendor to comply with any of the above conditions may result in immediate reinstatement of the requirement of reporting and paying the actual tax liability on each monthly return, and the commissioner may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

(2) The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount ~~of three-fourths of one per cent~~ provided in this section in consideration for prompt payment with the return, provided the return is filed together with payment of the amount of tax shown to be due thereon, at the time specified by the commissioner, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

(D) Any vendor who fails to file a return or pay the full amount of the

tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

(E) If the amount required to be collected by a vendor from consumers is in excess of ~~five per cent~~ the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

(F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

(G) Any vendor required to file a return and pay the tax under this section, whose total payment ~~in any year indicated in division (A) of section 5739.122 of the Revised Code~~ equals or exceeds the amount shown in ~~that~~ division (A) of section 5739.122 of the Revised Code, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.121. (A) As used in this section, "bad debt" means any debt that has become worthless or uncollectible in the time period between a vendor's preceding return and the present return, ~~have~~ has been uncollected

for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the vendor kept accounts on an accrual basis. "Bad debt" does not include any interest or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the vendor until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or for any portion of the debt recovered, ~~any accounts receivable that have been sold to a third party for collection,~~ and repossessed property.

(B) In computing taxable receipts for purposes of this chapter, a vendor may deduct the amount of bad debts, ~~as defined in this section.~~ The amount deducted must be charged off as uncollectible on the books of the vendor. A deduction may be claimed only with respect to bad debts on which the taxes pursuant to sections 5739.10 and 5739.12 of the Revised Code were paid in a preceding tax period. If the vendor's business consists of taxable and nontaxable transactions, the deduction shall equal the full amount of the debt if the debt is documented as a taxable transaction in the vendor's records. If no such documentation is available, the maximum deduction on any bad debt shall equal the amount of the bad debt multiplied by the quotient obtained by dividing the sales taxed pursuant to this chapter during the preceding calendar year by all sales during the preceding calendar year, whether taxed or not. If a consumer or other person pays all or part of a bad debt with respect to which a vendor claimed a deduction under this section, the vendor shall be liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit such taxes in the vendor's next payment to the tax commissioner.

(C) Any claim for a bad debt deduction under this section shall be supported by such evidence as the tax commissioner by rule requires. The commissioner shall review any change in the rate of taxation applicable to any taxable sales by a vendor claiming a deduction pursuant to this section and adopt rules for altering the deduction in the event of such a change in order to ensure that the deduction on any bad debt does not result in the vendor claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(D) In any reporting period in which the amount of bad debt exceeds the amount of taxable sales for the period, the vendor may file a refund claim for any tax collected on the bad debt in excess of the tax reported on the return. The refund claim shall be filed in the manner provided in section 5739.07 of the Revised Code, except that the claim may be filed within four

years of the due date of the return on which the bad debt first could have been claimed.

(E) When the filing responsibilities of a vendor have been assumed by a certified service provider, the certified service provider shall claim the bad debt allowance provided by this section on behalf of the vendor. The certified service provider shall credit or refund to the vendor the full amount of any bad debt allowance or refund.

(F) No person other than the vendor in the transaction that generated the bad debt or, as provided in division (E) of this section, a certified service provider, may claim the bad debt allowance provided by this section.

Sec. 5739.122. (A) If the total amount of tax required to be paid by a vendor under section 5739.12 of the Revised Code for any calendar year indicated in the following schedule equals or exceeds the amounts prescribed for that year in the schedule seventy-five thousand dollars, the vendor shall remit each monthly tax payment in the second ensuing and each succeeding tax year by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

~~Year~~	1992	1993 through 1999	2000 and thereafter
~~Tax~~	\$1,200,000	\$600,000	\$60,000
~~payment~~			

If a vendor's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the vendor is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each vendor required to remit taxes by electronic funds transfer of the vendor's obligation to do so, shall maintain an updated list of those vendors, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a vendor subject to this section to remit taxes by electronic funds transfer does not relieve the vendor of its obligation to remit taxes by electronic funds transfer.

(B) Vendors required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1) On or before the ~~eleventh~~ fifteenth day of each month, a vendor shall

remit an amount equal to the taxes collected during the first ~~seven~~ eleven days of the month. ~~On or before the eighteenth day of each month, a vendor shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month.~~ On or before the twenty-fifth day of each month, a vendor shall remit an amount equal to the taxes collected on the ~~fifteenth~~ twelfth through the twenty-first day of the month.

(2) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1) of this section, a vendor may, on or before each of the ~~eleventh, eighteenth, fifteenth~~ and twenty-fifth days of each month, remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the vendor's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a vendor shall report the taxes collected for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) or (2) of this section.

The payment of taxes by electronic funds transfer does not affect a vendor's obligation to file the monthly return as required under section 5739.12 of the Revised Code.

(C) A vendor required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the vendor from remittance by electronic funds transfer for good cause shown for the period of time requested by the vendor or for a portion of that period. The treasurer of state shall notify the tax commissioner and the vendor of the treasurer of state's decision as soon as is practicable.

(D)(1) If a vendor that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a vendor required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under division (D)(1) or (2) of this

section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a vendor that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be imposed upon the remittance of any subsequent tax payment that the vendor remits by some means other than electronic funds transfer.

Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section.

(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days.

(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession.

(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license.

Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of a statement prescribed by the commissioner.

At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of twenty-five dollars for each fixed place of business in the county that will be the situs of retail sales. Upon

receipt of the application and exhibition of the county treasurer's receipt, showing the payment of the license fee, the county auditor shall issue to the applicant a license for each fixed place of business designated in the application, authorizing the applicant to engage in business at that location. If a vendor's identity changes, the vendor shall apply for a new license. If a vendor wishes to move an existing fixed place of business to a new location within the same county, the vendor shall obtain a new vendor's license or submit a request to the tax commissioner to transfer the existing vendor's license to the new location. When the new location has been verified as being within the same county, the commissioner shall authorize the transfer and notify the county auditor of the change of location. If a vendor wishes to move an existing fixed place of business to another county, the vendor's license shall not transfer and the vendor shall obtain a new vendor's license from the county in which the business is to be located. The form of the license shall be prescribed by the commissioner. The fees collected shall be credited to the general fund of the county.

A vendor that makes retail sales subject to tax under Chapter 5739. of the Revised Code pursuant to a permit issued by the division of liquor control shall obtain a vendor's license in the identical name and for the identical address as shown on the permit.

Except as otherwise provided in this section, if a vendor has no fixed place of business and sells from a vehicle, each vehicle intended to be used within a county constitutes a place of business for the purpose of this section.

(B) As used in this division, "transient vendor" means any person who makes sales of tangible personal property from vending machines located on land owned by others, who leases titled motor vehicles, titled watercraft, or titled outboard motors, who effectuates leases that are taxed according to division ~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or who, in the usual course of the person's business, transports inventory, stock of goods, or similar tangible personal property to a temporary place of business or temporary exhibition, show, fair, flea market, or similar event in a county in which the person has no fixed place of business, for the purpose of making retail sales of such property. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or motor vehicle that is temporarily occupied for the purpose of making retail sales of goods to the public. A place of business is not temporary if the same person conducted business at the place continuously for more than six months or occupied the premises as the person's

permanent residence for more than six months, or if the person intends it to be a fixed place of business.

Any transient vendor, in lieu of obtaining a vendor's license under division (A) of this section for counties in which the transient vendor has no fixed place of business, may apply to the tax commissioner, on a form prescribed by the commissioner, for a transient vendor's license. The transient vendor's license authorizes the transient vendor to make retail sales in any county in which the transient vendor does not maintain a fixed place of business. Any holder of a transient vendor's license shall not be required to obtain a separate vendor's license from the county auditor in that county. Upon the commissioner's determination that an applicant is a transient vendor, the applicant shall pay a license fee in the amount of twenty-five dollars, at which time the tax commissioner shall issue the license. The tax commissioner may require a vendor to be licensed as a transient vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax.

Any holder of a valid transient vendor's license may make retail sales at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event, held anywhere in the state without complying with any provision of section 311.37 of the Revised Code. Any holder of a valid vendor's license may make retail sales as a transient vendor at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event held in any county in which the vendor maintains a fixed place of business for which the vendor holds a vendor's license without obtaining a transient vendor's license.

(C) As used in this division, "service vendor" means any person who, in the usual course of the person's business, sells services described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 5739.01 of the Revised Code.

Every service vendor shall make application to the tax commissioner for a service vendor's license. Each applicant shall pay a license fee in the amount of twenty-five dollars. Upon the commissioner's determination that an applicant is a service vendor and payment of the fee, the commissioner shall issue the applicant a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 5739.01 of the Revised Code may be made under authority of a service vendor's license, and that license authorizes sales to be made at any place in this state. Any service vendor who makes sales of other services or tangible personal property subject to the sales tax also shall be licensed under division (A), (B), or (D) of this section.

(D) As used in this division, "delivery vendor" means any vendor who engages in one or more of the activities described in divisions (D)(1) to (4) of this section, and who maintains no store, showroom, or similar fixed place of business or other location where merchandise regularly is offered for sale or displayed or shown in catalogs for selection or pick-up by consumers, or where consumers bring goods for repair or other service.

(1) The vendor makes retail sales of tangible personal property;

(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors;

(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.

A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

Sec. 5739.21. (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in section 5739.102 of

the Revised Code or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B)(1) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes received during that month from billings and assessments ~~received during that month, or shown on~~ associated with tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes. The amount to be returned to each county and transit authority shall be a fraction of the aggregate amount of money collected with respect to each area in which one or more of such taxes are concurrently in effect with the tax levied by section 5739.02 of the Revised Code, the The numerator of which the fraction is the rate of the tax levied by the county or transit authority and the denominator of which the fraction is the aggregate rate of such taxes applicable to such area; provided, that the The amount to be returned to each county or transit authority shall be reduced by the amount of any refunds of county or transit authority tax paid pursuant to section 5739.07 of the Revised Code during the same month, or transfers made pursuant to division (B)(2) of section 5703.052 of the Revised Code.

(2) On a periodic basis, using the best information available, the tax commissioner shall distribute any amount of a county or transit authority tax that cannot be distributed under division (B)(1) of this section. Through audit or other means, the commissioner shall attempt to obtain the information necessary to make the distribution as provided under that division and, on receipt of that information, shall make adjustments to distributions previously made under this division.

(C) The aggregate amount to be returned to any county or transit authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the

rates authorized under that section. ~~The~~

(D) ~~The~~ director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority.

Sec. 5739.33. If any corporation, limited liability company, or business trust required to file returns and to remit tax due to the state under this chapter, including a holder of a direct payment permit under section 5739.031 of the Revised Code, fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in section 5739.13 of the Revised Code.

Sec. 5741.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of

possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible personal property or has been provided a service for storage, use, or other consumption or benefit in this state. "Consumer" does not include a person who receives, without charge, tangible personal property or a service.

A person who performs a facility management or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(4) of section 5739.01 of the Revised Code.

(G)(1) "Price," except as provided in ~~the case of watercraft, outboard motors, or new motor vehicles,~~ means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, by a consumer to a seller in the complete performance of the transaction by which tangible personal property has been purchased or a service has been

provided for storage, use, or other consumption or benefit in this state, without any deduction or exclusion on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the transaction consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered by the lessee to the lessor, in the complete performance of the rental or lease, without any deduction or exclusion of tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (G)(6) of this section, the tax shall be calculated and collected by the lessor on each payment made by the lessee. If a consumer produces the tangible personal property used by the consumer, the price is the produced cost of such tangible personal property. "Price" does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the seller.

~~The tax collected by the seller from the consumer under this chapter is~~ not a part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code and, except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.

~~As used in division~~ divisions (G)(1)(2) to (6) of this section, "delivery charges" means charges by the seller for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing has the same meaning as in division (H)(1) of section 5739.01 of the Revised Code.

(2) In the case of watercraft, outboard motors, or new motor vehicles, "price" has the same meaning as in ~~division~~ divisions (H)(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that purchases and uses tangible personal property outside this state and subsequently temporarily stores, uses, or otherwise consumes such tangible personal property in the conduct of business in this state, the consumer or the tax commissioner may determine the price based on the value of the temporary

storage, use, or other consumption, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(4) In the case of tangible personal property held in this state as inventory for sale or lease, and that is temporarily stored, used, or otherwise consumed in a taxable manner, the price is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(6) ~~In the case of the purchase or lease of any motor vehicle designed by~~ the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the tax shall be collected by the vendor at the time the lease is consummated and calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. As used in division (G)(6) of this section only, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to

collect and remit use tax on sales of tangible personal property or services made to consumers in this state. "Substantial nexus with this state" exists when the seller does any of the following:

(1) Maintains a place of business within this state, whether operated by employees or agents of the seller, by a member of an affiliated group, as ~~described~~ defined in division (B)(3)(e) of section 5739.01 of the Revised Code, of which the seller is a member, or by a franchisee using a trade name of the seller;

(2) Regularly has employees, agents, representatives, solicitors, installers, repairmen, salesmen, or other individuals in this state for the purpose of conducting the business of the seller;

(3) Uses a person in this state for the purpose of receiving or processing orders of the seller's goods or services;

(4) Makes regular deliveries of tangible personal property into this state by means other than common carrier;

(5) Has membership in an affiliated group, as described in division (B)(3)(e) of section 5739.01 of the Revised Code, at least one other member of which has substantial nexus with this state;

(6) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state;

(7) Except as provided in section 5703.65 of the Revised Code, is registered with the secretary of state to do business in this state or is registered or licensed by any state agency, board, or commission to transact business in this state or to make sales to persons in this state;

(8) Has any other contact with this state that would allow this state to require the seller to collect and remit use tax under Section 8 of Article I of the Constitution of the United States.

(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed pursuant to section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created

pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in division (X) of section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "~~Lease~~" ~~means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than thirty days or for an open-ended period of time with a minimum fixed period of more than thirty days or~~ "rental" has the same meaning as in division (UU) of section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected ~~pursuant to the schedules as provided~~ in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of the tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated

by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a

nonresident tourist or vacationer, or a non-business use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E)(4) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner. If the transaction is claimed to be exempt under

division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(2) If no certificate is provided or obtained within the period for filing the return for the period in which the transaction is consummated, it shall be presumed that the tax applies. The failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, that the transaction is not subject to the tax.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5741.021. (A) For the purpose of providing additional general

revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county which levies a tax pursuant to section 5739.021 of the Revised Code shall levy a tax at the same rate levied pursuant to section 5739.021 of the Revised Code on the storage, use, or other consumption in the county of the following:

(1) Motor vehicles ~~acquired on or after May 1, 1970~~, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code and ~~acquired on or after April 1, 1990~~, by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners which shall be adopted after publication of notice and hearing in the same manner as provided in section 5739.021 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to section 5739.021 of the Revised Code and shall remain in effect until such sales tax is repealed.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.022 and 5741.023 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section

or section 5739.021, 5739.023, 5739.026, 5741.022, or 5741.023 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.022 and 5741.023 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.022 and 5741.023 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

(E) As used in this section, "criminal and administrative justice services" has the same meaning as in section 5739.021 of the Revised Code.

Sec. 5741.022. (A) For the purpose of providing additional general revenues for the transit authority and paying the expenses of administering such levy, any transit authority as defined in section 5741.01 of the Revised Code that levies a tax pursuant to section 5739.023 of the Revised Code shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the territory of the transit authority of the following:

(1) Motor vehicles ~~acquired on or after June 29, 1974~~, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code and ~~acquired on or after April 1, 1990~~, by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be in effect at the same time and at the same rate and shall be levied pursuant to the resolution of the legislative authority of the transit authority levying a sales tax pursuant to section 5739.023 of the Revised Code.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.021 and 5741.023 of the Revised Code.

(C) The additional tax levied by the authority shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of

property not within the taxing power of a transit authority under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 5741.023 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.021 and 5741.023 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.023 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

(E) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code if a ballot question is approved by voters pursuant to that section.

Sec. 5741.023. (A) For the same purposes for which it has imposed a tax under section 5739.026 of the Revised Code, any county ~~which~~ that levies a tax pursuant to such section shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the county of the following:

(1) Motor vehicles, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code, acquired by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners, which shall be adopted in the same manner as provided in section 5739.026 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to such section and shall remain in effect until such sales tax is repealed or expires.

(B) The tax levied pursuant to this section shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.021 and 5741.022 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 5741.022 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

Sec. 5741.121. (A) If the total amount of tax required to be paid by a seller or consumer under section 5741.12 of the Revised Code for any year ~~indicated in the following schedule~~ equals or exceeds ~~the amount prescribed for that year in the schedule~~ seventy-five thousand dollars, the seller or consumer shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

Year	1992	1993 through 1999	2000 and thereafter
Tax payment	\$1,200,000	\$600,000	\$60,000

If a seller's or consumer's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the seller or consumer is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each seller or consumer required to remit taxes by electronic funds transfer of the seller's or consumer's obligation to do so, shall maintain an updated list of those sellers and consumers, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a seller or consumer subject to this section to remit taxes by electronic funds transfer does not relieve the seller or consumer of the obligation to remit taxes by electronic funds transfer.

(B) Sellers and consumers required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the

treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, a seller shall remit an amount equal to the taxes collected during the first ~~seven~~ eleven days of the month. ~~On or before the eighteenth day of each month, a seller shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month.~~ On or before the twenty-fifth day of each month, a seller shall remit an amount equal to the taxes collected on the ~~fifteenth~~ twelfth through the twenty-first day of the month.

(b) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1)(a) of this section, a seller may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the seller's total tax liability for the same month in the preceding calendar year.

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, a consumer shall remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the consumer's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a seller shall report the taxes collected and a consumer shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1)(a) or (b) or (B)(2) of this section.

The payment of taxes by electronic funds transfer does not affect a seller's or consumer's obligation to file the monthly return as required under section 5741.12 of the Revised Code.

(C) A seller or consumer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the seller or consumer from remittance by electronic funds transfer for good cause shown for the period of time requested by the seller or consumer or for a portion of that period. The treasurer of state shall notify the tax commissioner and the seller or consumer of the treasurer of state's decision as soon as is practicable.

(D)(1) If a seller or consumer that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a seller or consumer required by this section to remit taxes by

electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5741.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a seller or consumer that has been notified of the obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer.

The additional charge may be imposed upon the remittance of any subsequent tax payment that the seller or consumer remits by some means other than electronic funds transfer.

Sec. 5741.25. If any corporation, limited liability company, or business trust registered or required to be registered under section 5741.17 of the Revised Code and required to file returns and remit tax due to the state under this chapter fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in section 5741.11 or 5741.13 of the Revised Code.

Sec. 5743.05. All stamps provided for by section 5743.03 of the Revised Code, when procured by the tax commissioner, shall be immediately delivered to the treasurer of state, who shall execute a receipt therefor

showing the number and aggregate face value of each denomination received by the treasurer of state and any other information that the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 or 5743.026 of the Revised Code, and deliver the receipt to the commissioner. The treasurer of state shall sell the stamps and, on the fifth day of each month, make a report showing all sales made during the preceding month, with the names of purchasers, the number of each denomination, the aggregate face value purchased by each, and any other information as the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 of the Revised Code, and deliver it to the commissioner. The treasurer of state shall be accountable for all stamps received and unsold. The stamps shall be sold and accounted for at their face value, except the commissioner shall, by rule certified to the treasurer of state, authorize the sale of stamps and meter impressions to wholesale or retail dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps or meter impressions.

The commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale and retail dealers in this state and to wholesale dealers outside this state on credit ~~when the purchaser files~~. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, and with surety to the satisfaction of the treasurer of state commissioner, conditioned on payment to the treasurer of state within thirty days for stamps or meter impressions delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall not require that the dealer file such a bond but shall require payment for the stamps and meter impressions within thirty days after purchase of the stamps and meter impressions. Stamps and meter impressions sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the tax commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period of July

through April. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the thirty-day period, the treasurer of state shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good standing. The commissioner shall limit delivery of stamps and meter impressions on credit to the period running from the first day of July of the fiscal year until the first day of the following May. Any discount allowed as a commission for affixing and canceling stamps or meter impressions shall be allowed with respect to sales of stamps and meter impressions on credit.

The treasurer of state shall redeem and pay for any destroyed, unused, or spoiled tax stamps and any unused meter impressions at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the tax commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is less than that claimed, the ~~commissioner~~ commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.

Sec. 5743.051. This section applies to any wholesale or retail cigarette dealer required by section 5743.05 of the Revised Code to remit payment for

tax stamps and meter impressions by electronic funds transfer. The tax commissioner shall notify each dealer of the dealer's obligation to do so and shall maintain an updated list of those dealers. Failure by the tax commissioner to notify a dealer subject to this section to remit taxes by electronic funds transfer does not relieve the dealer of its obligation to remit taxes by electronic funds transfer.

A dealer required to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code and within the time prescribed for such a dealer by section 5743.05 of the Revised Code.

A dealer required to remit taxes by electronic funds transfer may apply to the tax commissioner in the manner prescribed by the tax commissioner to be excused from that requirement. The tax commissioner may excuse the dealer from remittance by electronic funds transfer for good cause shown for the period of time requested by the dealer or for a portion of that period.

If a dealer required to remit taxes by electronic funds transfer remits those taxes by some other means, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer. If the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5743.081 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter and shall be considered as revenue arising from taxes imposed under this chapter. The tax commissioner may abate all or a portion of such a charge and may adopt rules governing such remissions.

No additional charge shall be assessed under this section against a dealer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the dealer remits by some means other than electronic funds transfer.

Sec. 5743.21. (A) No person shall affix a stamp required by section 5743.03 of the Revised Code to any package that:

(1) Bears any label or notice prescribed by the United States to identify cigarettes exempt from taxation by the United States pursuant to section 5704(b) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26

U.S.C.A. 5704(b), including any notice or label described in 27 C.F.R. 290.185;

(2) Is not labeled in conformity with the "Federal Cigarette Labeling and Advertising Act," 79 Stat. 282, 15 U.S.C.A. 1331 (1965), or any other federal requirement for the placement of labels, warnings, or other information applicable to packages of cigarettes intended for domestic consumption;

(3) Has been altered by anyone other than the manufacturer or a person authorized by the manufacturer, including by the placement of a sticker to cover information on or add information to the package;

(4) Has been imported or brought into the United States after January 1, 2000, in violation of section 5754 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or regulations adopted under that section;

(5) Is produced by a tobacco product manufacturer or is part of a brand family that is not included in the directory established under section 1346.05 of the Revised Code.

(B) No person shall sell or offer to sell any roll-your-own tobacco to any person in this state if the roll-your-own tobacco is not included in the directory established under section 1346.05 of the Revised Code. Any roll-your-own tobacco in the possession of a retail dealer in this state shall be prima facie evidence of offering to sell to a person in this state.

(C) Whenever the tax commissioner discovers any packages to which stamps have been affixed in violation of this section, or any roll-your-own tobacco sold or offered for sale in violation of this section, the tax commissioner may seize the packages or roll-your-own tobacco, which shall thereupon be forfeited to the state, and shall order their the destruction of the packages or roll-your-own tobacco, provided that the seizure and destruction shall not exempt any person from prosecution or from the fine or imprisonment provided for the violation of this section.

(D) As used in this section, "roll-your-own" has the same meaning as in section 1346.01 of the Revised Code, and "tobacco product manufacturer" and "brand family" have the same meanings as in section 1346.04 of the Revised Code.

Sec. 5743.45. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapters 5728., 5735., 5739., 5741., and 5747. of the Revised Code and subject to division (C) of this section, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training

commission and who is engaged in the enforcement of those chapters. A separate journal entry shall be entered for each employee to whom that power is delegated. Each journal entry shall be a matter of public record and shall be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke ~~that~~ the commissioner's delegation by journal entry. No employee of the department shall divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, except as may be required by the commissioner or a court.

(C)(1) The tax commissioner shall not delegate any investigation powers to an employee of the department of taxation pursuant to division (B) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The tax commissioner shall revoke the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The tax commissioner shall suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner shall revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner shall reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee

under division (C)(2) of this section shall be made by journal entry pursuant to division (B) of this section. An employee to whom the delegation of investigation powers is reinstated under division (C)(2)(b) of this section shall not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5745.01. As used in this chapter:

(A) "Electric company," ~~and~~ "combined company," and "telephone company," have the same meanings as in section 5727.01 of the Revised Code, except "telephone company" does not include a non profit corporation.

(B) "Electric light company" has the same meaning as in section 4928.01 of the Revised Code, and includes the activities of a combined company as an electric company, but excludes nonprofit companies and municipal corporations.

(C) "Taxpayer" means ~~an~~ either of the following:

(1) An electric light company subject to taxation by a municipal corporation in this state for a taxable year, excluding an electric light company that is not an electric company or a combined company and for which an election made under section 5745.031 of the Revised Code is not in effect with respect to the taxable year. If such a company is a qualified subchapter S subsidiary as defined in section 1361 of the Internal Revenue Code or a disregarded entity, the company's parent S corporation or owner is the taxpayer for the purposes of this chapter and is hereby deemed to have nexus with this state under the Constitution of the United States for the purposes of this chapter.

(2) A telephone company subject to taxation by a municipal corporation in this state for a taxable year. A telephone company is subject to taxation under this chapter for any taxable year that begins on or after January 1, 2004. A telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, or shall compute its net operating loss carried forward for that taxable year, by multiplying the tax owed, or the loss for the taxable year, by fifty per cent.

(D) "Disregarded entity" means an entity that, for its taxable year, is by

default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 C.F.R. 301.7701-3.

(E) "Taxable year" of a taxpayer is the taxpayer's taxable year for federal income tax purposes.

(F) "Federal taxable income" means taxable income, before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code.

(G) "Adjusted federal taxable income" means federal taxable income adjusted as follows:

(1) Deduct intangible income as defined in section 718.01 of the Revised Code to the extent included in federal taxable income;

(2) Add expenses incurred in the production of such intangible income;

(3) If, with respect to a qualifying taxpayer and a qualifying asset there occurs a qualifying taxable event, the qualifying taxpayer shall reduce its federal taxable income, as defined in division (F) of this section, by the amount of the book-tax ~~differential~~ difference for that qualifying asset if the book-tax ~~differential~~ difference is greater than zero, and shall increase its federal taxable income by the absolute value of the amount of the book-tax ~~differential~~ difference for that qualifying asset if the book-tax ~~differential~~ difference is less than zero. The adjustments provided in division (G)(3) of this section are subject to divisions (B)(3), (4), and (5) of section 5733.0510 of the Revised Code to the extent those divisions apply to the adjustments in that section for the taxable year. A taxpayer shall not deduct or add any amount under division (G)(3) of this section with respect to a qualifying asset the sale, exchange, or other disposition of which resulted in the recognition of a gain or loss that the taxpayer deducted or added, respectively, under division (G)(1) or (2) of this section.

For the purposes of division (G)(3) of this section, ~~"net income" has the same meaning as in section 5733.04 of the Revised Code, and "book-tax differential difference," "qualifying taxpayer," "qualifying asset," and "qualifying taxable event" have the same meanings as in section 5733.0510 of the Revised Code.~~

(4) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute "adjusted federal taxable income" as if the taxpayer were a C corporation, except:

(a) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, or member or former member shall not be allowed as a deductible expense; and

(b) With respect to each owner or owner-employee of the taxpayer, amounts paid or accrued to a qualified self-employed retirement plan and

amounts paid or accrued to or for health insurance or life insurance shall not be allowed as a deduction.

Nothing in this division shall be construed as allowing the taxpayer to deduct any amount more than once.

(5) Add or deduct the amounts described in section 5733.0511 of the Revised Code for qualifying telephone company taxpayers.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on December 31, 2001.

(I) "Ohio net income" means the amount determined under division (B) of section 5745.02 of the Revised Code.

Sec. 5745.02. (A) The annual report filed under section 5745.03 of the Revised Code determines a taxpayer's Ohio net income and the portion of Ohio net income to be apportioned to a municipal corporation.

(B) A taxpayer's Ohio net income is determined by multiplying the taxpayer's adjusted federal taxable income by the sum of the property factor multiplied by one-third, the payroll factor multiplied by one-third, and the sales factor multiplied by one-third. If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. The property, payroll, and sales factors shall be determined in the manner prescribed by divisions (B)(1), (2), and (3) of this section.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented, and used in business in this state during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented, and used in business everywhere during such year. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the taxpayer's property.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid

everywhere by the taxpayer during such year. Compensation means any form of remuneration paid to an employee for personal services. Compensation is paid in this state if: (a) the recipient's service is performed entirely within this state, (b) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, or (c) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(3) The sales factor is a fraction, the numerator of which is the total sales in this state by the taxpayer during the taxable year, and the denominator of which is the total sales by the taxpayer everywhere during such year. Sales of electricity shall be situated to this state in the manner provided under section 5733.059 of the Revised Code. In determining the numerator and denominator of the sales factor, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting taxpayer owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company, a combined company, or a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the reporting taxpayer from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of division (B)(3) of this section, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales, other than sales of electricity or tangible personal property, are in

this state if either the income-producing activity is performed solely in this state, or the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

For the purposes of division (B)(3) of this section, the tax commissioner may adopt rules to apportion sales within this state.

(C) The portion of a taxpayer's Ohio net income taxable by each municipal corporation imposing an income tax shall be determined by multiplying the taxpayer's Ohio net income by the sum of the municipal property factor multiplied by one-third, the municipal payroll factor multiplied by one-third, and the municipal sales factor multiplied by one-third, and subtracting from the product so obtained any "municipal net operating loss carryforward from prior taxable years." If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. In calculating the "municipal net operating loss carryforward from prior taxable years" for each municipal corporation, net operating losses are apportioned in and out of a municipal corporation for the taxable year in which the net operating loss occurs in the same manner that positive net income would have been so apportioned. Any net operating loss for a municipal corporation may be applied to subsequent net income in that municipal corporation to reduce that income to zero or until the net operating loss has been fully used as a deduction. The unused portion of net operating losses for each taxable year apportioned to a municipal corporation may only be applied against the income apportioned to that municipal corporation for five subsequent taxable years. Net operating losses occurring in taxable years ending before 2002 may not be subtracted under this section.

A taxpayer's municipal property, municipal payroll, and municipal sales factors for a municipal corporation shall be determined as provided in divisions (C)(1), (2), and (3) of this section.

(1) The municipal property factor is the quotient obtained by dividing (a) the average value of real and tangible personal property owned or rented by the taxpayer and used in business in the municipal corporation during the taxable year by (b) the average value of all of the taxpayer's real and tangible personal property owned or rented and used in business during that taxable year in this state. The value and average value of such property shall be determined in the same manner provided in division (B)(1) of this section.

(2) The municipal payroll factor is the quotient obtained by dividing (a) the total amount of compensation earned in the municipal corporation by the taxpayer's employees during the taxable year for services performed for the taxpayer and that is subject to income tax withholding by the municipal corporation by (b) the total amount of compensation paid by the taxpayer to its employees in this state during the taxable year. Compensation has the same meaning as in division (B)(2) of this section.

(3) The municipal sales factor is a fraction, the numerator of which is the taxpayer's total sales in a municipal corporation during the taxable year, and the denominator of which is the taxpayer's total sales in this state during such year.

For the purpose of division (C)(3) of this section, sales of tangible personal property are in the municipal corporation where such property is received in the municipal corporation by the purchaser. Sales of electricity directly to the consumer, as defined in section 5733.059 of the Revised Code, shall be considered sales of tangible personal property. In the case of the delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property ultimately is received after all transportation has been completed shall be considered as the place at which the property is received by the purchaser. Direct delivery in the municipal corporation, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in that municipal corporation, and direct delivery outside the municipal corporation to a person or firm designated by a purchaser does not constitute delivery to the purchaser in that municipal corporation, regardless of where title passes or other conditions of sale. Sales, other than sales of tangible personal property, are in the municipal corporation if either:

(a) The income-producing activity is performed solely in the municipal corporation;

(b) The income-producing activity is performed both within and without the municipal corporation and a greater proportion of the income-producing activity is performed within that municipal corporation than any other location in this state, based on costs of performance.

For the purposes of division (C)(3) of this section, the tax commissioner may adopt rules to apportion sales within each municipal corporation.

(D) If a taxpayer is a combined company as defined in section 5727.01 of the Revised Code, the municipal property, payroll, and sales factors under division (C) of this section shall be adjusted as follows:

(1) The numerator of the municipal property factor shall include only

the value, as determined under division (C)(1) of this section, of the company's real and tangible property in the municipal corporation attributed to the company's activity as an electric company using the same methodology prescribed under section 5727.03 of the Revised Code for taxable tangible personal property.

(2) The numerator of the municipal payroll factor shall include only compensation paid in the municipal corporation by the company to its employees for personal services rendered in the company's activity as an electric company.

(3) The numerator of the municipal sales factor shall include only the sales of tangible personal property and services, as determined under division (C)(3) of this section, made in the municipal corporation in the course of the company's activity as an electric company.

(E)(1) If the provisions for apportioning adjusted federal taxable income or Ohio net income under ~~division~~ divisions (B), (C), and (D) of this section do not fairly represent business activity in this state or among municipal corporations, the tax commissioner may adopt rules for apportioning such income by an alternative method that fairly represents business activity in this state or among municipal corporations.

(2) If any of the factors determined under division (B), (C), or (D) of this section does not fairly represent the extent of a taxpayer's business activity in this state or among municipal corporations, the taxpayer may request, or the tax commissioner may require, that the taxpayer's adjusted federal taxable income or Ohio net income be determined by an alternative method, including any of the alternative methods enumerated in division (B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer requesting an alternative method shall make the request in writing to the tax commissioner either with the annual report, a timely filed amended report, or a timely filed petition for reassessment. When the tax commissioner requires or permits an alternative method under division (E)(2) of this section, the tax commissioner shall cause a written notice to that effect to be delivered to any municipal corporation that would be affected by application of the alternative method. Nothing in this division shall be construed to extend any statute of limitations under this chapter.

(F)(1) The tax commissioner may adopt rules providing for the combination of adjusted federal taxable incomes of taxpayers satisfying the ownership or control requirements of section 5733.052 of the Revised Code if the tax commissioner finds that such combinations are necessary to properly reflect adjusted federal taxable income, Ohio net income, or the portion of Ohio net income to be taxable by municipal corporations.

(2) A taxpayer satisfying the ownership or control requirements of section 5733.052 of the Revised Code with respect to one or more other taxpayers may not combine their adjusted federal taxable incomes for the purposes of this section unless rules are adopted under division (F)(1) of this section allowing such a combination or the tax commissioner finds that such a combination is necessary to properly reflect the taxpayers' adjusted federal taxable incomes, Ohio net incomes, or the portion of Ohio net incomes to be subject to taxation within a municipal corporation.

(G) The tax commissioner may adopt rules providing for alternative apportionment methods for a telephone company.

Sec. 5745.04. (A) As used in this section, "combined tax liability" means the total of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.

(B) Beginning with its taxable year beginning in 2003, each taxpayer shall file a declaration of estimated tax report with, and remit estimated taxes to, the tax commissioner, payable to the treasurer of state, at the times and in the amounts prescribed in divisions (B)(1) to (4) of this section. This division also applies to a taxpayer having a taxable year consisting of fewer than twelve months, at least one of which is in 2002, that ends before January 1, 2003. The first taxable year a taxpayer is subject to this chapter, the estimated taxes the taxpayer is required to remit under this section shall be based solely on the current taxable year and not on the liability for the preceding taxable year.

(1) Not less than twenty-five per cent of the combined tax liability for the preceding taxable year or twenty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the fourth month after the end of the preceding taxable year.

(2) Not less than fifty per cent of the combined tax liability for the preceding taxable year or forty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the sixth month after the end of the preceding taxable year.

(3) Not less than seventy-five per cent of the combined tax liability for the preceding taxable year or sixty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the ninth month after the end of the preceding taxable year.

(4) Not less than one hundred per cent of the combined tax liability for the preceding taxable year or eighty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the twelfth month after the end of the preceding taxable year.

(C) Each taxpayer shall report on the declaration of estimated tax report the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(D) Upon receiving a declaration of estimated tax report and remittance of estimated taxes under this section, the tax commissioner shall immediately forward to the treasurer of state such remittance. The treasurer of state shall credit ninety-eight and one-half per cent of the remittance to the municipal income tax fund and credit the remainder to the municipal income tax administrative fund.

(E) If any remittance of estimated taxes is for one thousand dollars or more, the taxpayer shall make the remittance by electronic funds transfer as prescribed by section 5745.04 of the Revised Code.

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised Code, no penalty or interest shall be imposed on a taxpayer if the declaration of estimated tax report is properly filed, and the estimated tax is paid, within the time prescribed by division (B) of this section.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1

railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 or after 2004, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for

medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one

hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest. ~~The~~

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the ~~add-back~~ add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by

the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an

employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year.

(b) A trust is irrevocable to the extent that the transferor is not

considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and

(2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least

one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed

pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that

in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small

business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002, 2003, or 2004.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years

of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under division (B)(2) of section 5733.05,

and applying section 5733.057 of the Revised Code, as if the trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code, multiplied by the sum of the following amounts:

- (i) The trust's modified business income;
- (ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

- (i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year

ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division

(BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

In July of each year, beginning in 2005, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to

the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A credit is allowed against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the trust's modified nonbusiness income, other than the portion of the trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the trust's modified nonbusiness income other than the portion of trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to this division. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to this division. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to section 1111.19 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the

Internal Revenue Code.

Sec. 5747.026. (A) For taxable years beginning on or after January 1, 2002, a member of the national guard or a member of a reserve component of the armed forces of the United States called to active or other duty under operation Iraqi freedom may apply to the tax commissioner for an extension for filing of the return and payment of taxes required under this chapter during the period of the member's duty service and for sixty days thereafter. The application shall be filed on or before the sixtieth day after the member's duty terminates. An applicant shall provide such evidence as the commissioner considers necessary to demonstrate eligibility for the extension.

(B)(1) If the commissioner determines that an applicant is qualified for an extension under this section, the commissioner shall enter into a contract with the applicant for the payment of the tax in installments that begin on the sixty-first day after the applicant's duty under operation Iraqi freedom terminates. Except as provided in division (B)(3) of this section, the commissioner may prescribe such contract terms as the commissioner considers appropriate.

(2) If the commissioner determines that an applicant is qualified for an extension under this section, the applicant shall not be required to file any return, report, or other tax document before the sixty-first day after the applicant's duty under operation Iraqi freedom terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The tax commissioner shall not require any payments of penalties or interest in connection with such taxes.

(C)(1) Divisions (A) and (B) of this section do not apply to any taxable year for which a taxpayer receives an extension of time in which to file a federal income tax return or pay federal income tax under the Internal Revenue Code.

(2)(a) A taxpayer who is eligible for an extension under the Internal Revenue Code shall receive an extension of time in which to file any return, report, or other tax document described in this chapter and an extension of time in which to make any payment of taxes required under this chapter or Chapter 5748. of the Revised Code. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code.

(b) Taxes paid in accordance with division (C)(2)(a) of this section are not delinquent. The tax commissioner shall not require any payment of penalties or interest in connection with such taxes. The tax commissioner

shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the interest due on any unpaid tax.

(D) The tax commissioner shall adopt rules necessary to administer this section, including rules establishing the following:

(1) Forms and procedures by which applicants may apply for extensions;

(2) Criteria for eligibility;

(3) A schedule for repayment of deferred taxes.

Sec. 5747.12. If a person entitled to a refund under section 5747.11 or 5747.13 of the Revised Code is indebted to this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, or fee administered by the tax commissioner that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium, unemployment compensation contribution, or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax imposed under this chapter or Chapter 5748. of the Revised Code and due for any taxable year, of the amount of any refund due the taxpayer under this chapter or Chapter 5748. of the Revised Code, as appropriate, for a preceding taxable year.

Sec. 5747.31. (A) This section applies to an individual or estate that is a proprietor or a pass-through entity investor.

(B) A taxpayer described in division (A) of this section is allowed a credit that shall be computed and claimed in the same manner as the credit allowed to corporations in section 5733.33 of the Revised Code. The taxpayer shall claim one-seventh of the credit amount for the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing taxable years. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

The taxpayer shall file with the department of development a notice of

intent to claim the credit in accordance with division (E) of section 5733.33 of the Revised Code.

(C)(1) A taxpayer described in division (A) of this section is allowed a credit that shall be computed in the same manner as the credit allowed to a corporation in section 5733.39 of the Revised Code, with the following adjustments:

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code;

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code;

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code;

(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code.

(2) Notwithstanding section ~~5747.131~~ 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section ~~5747.131~~ 5703.56 of the Revised Code do not apply with respect to the credit provided by this division.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

Sec. 5747.80. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the Revised Code. If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5747.02 of the Revised Code after all credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy-five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due after all the taxpayer's credits are deducted in that order. If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any taxable year is greater than the tax otherwise due under section 5747.02 of

the Revised Code, after allowing for any other credits that precede the credit allowed under this section, the excess shall be allowed as a credit in each of the ensuing ten taxable years, but the amount of any excess credit allowed in the ensuing taxable year shall be deducted from the balance carried forward to the next taxable year.

Sec. 5901.021. (A) This section applies only to counties having a population, according to the most recent decennial census, of more than ~~four~~ five hundred thousand. ~~In~~

(B)(1) In any ~~such~~ county that is described in division (A) of this section and in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds (1) twenty-five-thousandths of one per cent of the assessed value of property in the county or (2) the amount appropriated to the commission from the county general fund in the current fiscal year by more than ten per cent of that appropriation, the board of county commissioners, by resolution, may create not more than six memberships on the veterans service commission in addition to the memberships provided for by section 5901.02 of the Revised Code. The board shall prescribe the number of years ~~such~~ the additional memberships shall exist, which shall not exceed five years. Once a board of county commissioners creates ~~such~~ any additional memberships, it may not create further additional memberships under this section if the total number of such memberships would exceed six. The board shall appoint persons who are residents of the county and who are honorably discharged or honorably separated veterans to each of the additional memberships, for terms prescribed by the board and commencing on a date fixed by the board. Each person appointed to an additional membership shall file, within sixty days after the date of the appointment, the person's form DD214 with the governor's office of veterans affairs in accordance with guidelines established by the director of that office.

(2) If the board of county commissioners appoints ~~such~~ additional members as described in division (B)(1) of this section, the board may permit the commission to submit an original or revised budget request for the ensuing fiscal year later than the last Monday in May, as otherwise required under section 5901.11 of the Revised Code.

(C) The board of county commissioners may remove, for cause, any member appointed under this section; The board shall ~~provide for~~ determine whether ~~such~~ the additional members may be reappointed upon the expiration of their terms; and shall fill any vacancy in a an additional membership ~~appointed under this section~~ for the unexpired term in the manner provided for the original appointment.

Sec. 6101.09. Within thirty days after the conservancy district has been declared a corporation by the court, the clerk of such court shall transmit to the secretary of state, to the director of the department of natural resources, and to the county recorder in each of the counties having lands in the district, copies of the findings and the decree of the court incorporating the district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations. Copies shall also be filed and become permanent records in the office of the recorder of each county in which a part of the district lies. Each recorder shall receive a base fee of one dollar for filing and preserving such copies and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code, and the secretary of state shall receive for filing and for recording the copies a fee of twenty-five dollars.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and

license renewals under this section. Through June 30, ~~2004~~ 2006, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

- (1) Issue the license renewal for the public water system;
- (2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;
- (3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6111.06. (A) All proceedings of the director of environmental

protection, or ~~his~~ of the director's officers or agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to 6111.38~~ of the Revised Code, including the adoption, issuance, modification, rescission, or revocation of rules and regulations, permits, orders, and notices, and the conduct of hearings, except standards of water quality adopted pursuant to section 6111.041 of the Revised Code, shall be subject to and governed by sections 119.01 to 119.13, and Chapter 3745. of the Revised Code.

(B) The director shall not refuse to issue a permit, nor modify or revoke a permit already issued, unless the applicant or permit holder has been afforded an opportunity for a hearing prior to the refusal to issue the permit or prior to the modification or revocation of the permit.

(C) Whenever the director officially determines that an emergency exists requiring immediate action to protect the public health or welfare, ~~he~~ the director may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding division (A) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the director shall be afforded a hearing as soon as possible, and not later than twenty days after such application. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it. No such emergency order shall remain in effect for more than sixty days after its issuance.

Sec. 6115.09. Within thirty days after the sanitary district has been declared a corporation by the court, the clerk of such court shall transmit to the secretary of state, and to the county recorder in each of the counties having lands in said district, copies of the findings and the decree of the court incorporating said district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations. Copies shall also be filed and become permanent records in the office of the recorder of each county in which a part of the district lies. Each recorder shall receive a base fee of one dollar for filing and preserving such copies and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code, and the secretary of state shall receive for filing and for recording said copies such fees as are provided by law for like services in similar cases.

Sec. 6117.02. (A) The board of county commissioners shall fix reasonable rates, including penalties for late payments, for the use, or the availability for use, of the sanitary facilities of a sewer district to be paid by

every person and public agency whose premises are served, or capable of being served, by a connection directly or indirectly to those facilities when those facilities are owned or operated by the county and may change the rates from time to time as it considers advisable. When the sanitary facilities to be used by the county are owned by another public agency or person, the schedule of rates to be charged by the public agency or person for the use of the facilities by the county, or the formula or other procedure for their determination, shall be approved by the board at the time it enters into a contract for that use.

(B) The board also shall establish reasonable charges to be collected for the privilege of connecting to the sanitary facilities of the district, with the requirement that, prior to the connection, the charges shall be paid in full, or, if determined by the board to be equitable in a resolution relating to the payment of the charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The auditor shall record and maintain the information supplied in the sewer improvement record provided for in section 6117.33 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the use of sanitary facilities.

(C) When any of the sanitary rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid sanitary rates or charges and associated penalties. The lien shall be released immediately

upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the sanitary fund shall not be expended other than for the use and benefit of the district.

(D) The board may fix reasonable rates and charges, including connection charges and penalties for late payments, to be paid by any person or public agency owning or having possession or control of any properties

that are connected with, capable of being served by, or otherwise served directly or indirectly by, drainage facilities owned or operated by or under the jurisdiction of the county, including, but not limited to, properties requiring, or lying within an area of the district requiring, in the judgment of the board, the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and may change those rates and charges from time to time as it considers advisable. The In addition, the board may fix the rates and charges in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122.

The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122, the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge.

When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid drainage rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the drainage service for the particular property until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of drainage rates and charges applicable to the particular property.

All moneys collected as drainage rates, charges, or penalties in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct drainage fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the drainage fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the drainage facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of drainage facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for drainage purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of drainage facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the drainage fund shall not be expended other than for the use and benefit of the district.

(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary

engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

Sec. 6119.10. The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed ~~fifteen~~ twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds ~~fifteen~~ twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published not less than two consecutive weeks in at least one newspaper having a general circulation within the district. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding or advertising. All contracts shall have attached the certificate required by section 5705.41 of the Revised Code

duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds ~~fifteen~~ twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

Sec. 6301.05. The chief elected official of a ~~municipal corporation that is the type of local area defined in division (A)(1) of section 6301.01 of the Revised Code or is in the type of local area defined in division (A)(3) of that section~~ shall enter into a written ~~partnership~~ grant agreement with the director of job and family services in accordance with section ~~5101.213~~ 5101.20 of the Revised Code.

~~The board of county commissioners of a county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code or is in the type of local area defined in division (A)(3) of that section shall enter into a written partnership agreement with the director of job and family services in accordance with section 5101.21 of the Revised Code.~~

A grant agreement entered into pursuant to this section shall include the responsibility of municipal corporations and the board of county commissioners to be accountable to the department of job and family services for the use of funds provided through the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, including regulations issued by the United States department of labor pursuant to that act.

Sec. 6301.07. (A) Every workforce policy board, with the agreement of the chief elected officials of the local area, and after holding public hearings that allow public comment and testimony, shall prepare a workforce development plan ~~and incorporate that plan into and attach that plan to the partnership agreement required under section 6301.05 of the Revised Code.~~ The plan shall accomplish all of the following:

(1) Identify the workforce investment needs of businesses in the local area, identify projected employment opportunities, and identify the job skills necessary to obtain those opportunities;

(2) Identify the local area's workforce development needs for youth, dislocated workers, adults, displaced homemakers, incumbent workers, and any other group of workers identified by the workforce policy board;

(3) Determine the distribution of workforce development resources and

funding to be distributed for each workforce development activity to meet the identified needs, utilizing the funds allocated pursuant to the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended;

(4) Give priority to youth receiving independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code when determining distribution of workforce development resources and workforce development activity funding;

(5) Review the minimum curriculum required by the state workforce policy board for certifying training providers and identify any additional curriculum requirements to include in contracts between the training providers and the chief elected officials of the local area;

(6) Establish performance standards for service providers that reflect local workforce development needs;

(7) Describe any other information the chief elected officials of the local area require.

(B) A workforce policy board may provide policy guidance and recommendations to the chief elected officials of a local area for any workforce development activities.

(C) Nothing in this section prohibits the chief elected officials of a local area from assigning, through a partnership agreement, any duties in addition to the duties under this section to a workforce policy board, except that a workforce policy board cannot contract with itself for the direct provision of services in its local area. A workforce policy board may consult with the chief elected officials of its local area and make recommendations regarding the workforce development activities provided in its local area at any time.

SECTION 2. That existing sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.32, 109.57, 109.572, 117.101, 117.16, 117.44, 117.45, 121.04, 121.08, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.05, 125.06, 125.07, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.14, 164.27, 165.09, 166.16, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376, 507.09, 511.12, 515.01, 515.07, 521.05, 715.013, 718.01, 718.02, 718.05, 718.11, 718.14, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17,

901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1337.11, 1346.02, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 1751.05, 1751.11, 1751.12, 1751.13, 1751.16, 1751.60, 2101.16, 2117.06, 2117.25, 2133.01, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 2152.19, 2301.02, 2301.03, 2301.58, 2305.234, 2329.07, 2329.66, 2335.39, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02, 2743.191, 2743.51, 2743.60, 2743.65, 2915.01, 2915.02, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.093, 2915.095, 2915.10, 2915.101, 2915.13, 2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43, 2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952, 3125.12, 3301.0710, 3301.0711, 3301.0714, 3301.33, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68, 3301.80, 3307.01, 3307.35, 3309.341, 3311.05, 3311.24, 3311.26, 3313.843, 3313.975, 3313.976, 3313.978, 3313.977, 3313.979, 3313.981, 3314.02, 3314.03, 3314.041, 3314.07, 3314.08, 3314.17, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.09, 3317.10, 3317.16, 3318.01, 3318.03, 3318.042, 3318.05, 3318.06, 3318.08, 3318.30, 3318.31, 3318.37, 3318.41, 3319.01, 3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.33, 3319.36, 3319.55, 3323.16, 3327.01, 3327.011, 3329.06, 3329.08, 3332.04, 3333.12, 3353.11, 3361.01, 3375.41, 3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30, 3503.10, 3505.01, 3505.061, 3505.08, 3505.10, 3517.092, 3701.021, 3701.022, 3701.024, 3701.141, 3701.145, 3701.741, 3701.83, 3701.881, 3701.99, 3702.31, 3702.529, 3702.53, 3702.532, 3702.54, 3702.544, 3702.55, 3702.60, 3702.61, 3702.68, 3702.74, 3705.01, 3705.23, 3705.24, 3709.09, 3710.05, 3710.07, 3711.021, 3717.42, 3721.02, 3721.121, 3722.151, 3733.43, 3733.45, 3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.27, 3735.66, 3735.67, 3735.671, 3737.81, 3745.04, 3745.11, 3745.14, 3745.40, 3746.13, 3748.07, 3748.13, 3769.087, 3770.07, 3770.10, 3770.12, 3770.99, 3773.33, 3773.43, 3901.491, 3901.501, 3901.72, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17, 4112.15, 4115.10, 4117.02, 4117.14, 4123.27, 4123.41, 4141.04, 4141.09, 4141.23, 4301.03, 4301.19, 4301.30, 4301.361, 4301.364, 4301.43,

4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 4303.06, 4303.07, 4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13, 4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17, 4303.171, 4303.18, 4303.181, 4303.182, 4303.183, 4303.184, 4303.19, 4303.20, 4303.201, 4303.202, 4303.203, 4303.204, 4303.21, 4303.22, 4303.23, 4303.231, 4501.06, 4503.06, 4503.101, 4503.103, 4505.06, 4506.14, 4506.15, 4506.16, 4506.20, 4506.24, 4508.08, 4509.60, 4511.33, 4511.62, 4511.63, 4519.55, 4561.18, 4561.21, 4707.071, 4707.072, 4707.10, 4709.12, 4717.07, 4717.09, 4719.01, 4723.01, 4723.06, 4723.07, 4723.08, 4723.082, 4723.17, 4723.271, 4723.34, 4723.35, 4723.431, 4723.63, 4729.01, 4729.41, 4731.27, 4731.65, 4731.71, 4734.15, 4736.12, 4743.05, 4747.05, 4747.06, 4747.07, 4747.10, 4751.06, 4751.07, 4759.08, 4771.22, 4779.08, 4779.17, 4779.18, 4903.24, 4905.79, 4905.91, 4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 4981.20, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16, 5101.162, 5101.18, 5101.181, 5101.21, 5101.211, 5101.212, 5101.22, 5101.24, 5101.26, 5101.27, 5101.28, 5101.35, 5101.36, 5101.46, 5101.58, 5101.59, 5101.75, 5101.80, 5101.83, 5101.97, 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 5108.10, 5111.016, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.03, 5111.06, 5111.082, 5111.111, 5111.17, 5111.171, 5111.20, 5111.21, 5111.22, 5111.251, 5111.252, 5111.34, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.92, 5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 5123.19, 5123.60, 5123.801, 5126.01, 5126.042, 5126.11, 5126.12, 5126.121, 5126.15, 5126.18, 5126.44, 5139.04, 5139.33, 5139.34, 5139.36, 5139.41, 5139.43, 5139.87, 5153.122, 5153.16, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5310.15, 5502.01, 5502.13, 5513.01, 5515.07, 5549.21, 5703.052, 5705.39, 5705.41, 5709.20, 5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 5709.61, 5709.62, 5709.63, 5709.632, 5709.64, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5713.30, 5715.27, 5715.39, 5717.03, 5719.07, 5725.19, 5727.111, 5727.30, 5727.32, 5727.33, 5727.56, 5727.84, 5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08, 5733.04, 5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.121, 5733.18, 5733.22, 5733.45, 5733.49, 5733.98, 5735.05, 5735.14, 5735.142, 5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 5739.02, 5739.021, 5739.022, 5739.023,

5739.025, 5739.026, 5739.03, 5739.032, 5739.033, 5739.09, 5739.10, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.121, 5743.05, 5743.21, 5743.45, 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.12, 5747.31, 5747.80, 5901.021, 6101.09, 6109.21, 6111.06, 6115.09, 6117.02, 6119.10, 6301.05, and 6301.07, and sections 122.12, 125.831, 125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 319.311, 504.21, 718.03, 1333.96, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 2305.26, 3301.078, 3301.0719, 3301.0724, 3301.31, 3301.581, 3313.82, 3313.83, 3313.94, 3317.11, 3318.033, 3318.052, 3318.35, 3319.06, 3319.34, 3701.142, 3701.144, 3702.543, 3702.581, 4104.42, 4104.43, 4141.044, 4141.045, 5101.213, 5101.251, 5108.05, 5111.017, 5111.173, 5115.011, 5115.012, 5115.06, 5115.061, 5139.42, 5139.45, 5709.211, 5709.23, 5709.231, 5709.24, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5727.39, 5727.44, 5733.111, 5739.012, 5739.034, 5741.011, 5747.131, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code are hereby repealed.

SECTION 3.01. That the version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, be amended to read as follows:

Sec. 921.22. The pesticide program fund is hereby created in the state treasury. ~~All The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section, and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section.~~ The fund shall consist of fees collected under sections 921.01 to 921.15, division (F) of section 927.53, and section 927.69 of the Revised Code, money collected under section 927.701 of the Revised Code, and all fines, penalties, costs, and damages, except court costs, that are collected by either the director of agriculture or the attorney general in consequence of any violation of this chapter.

SECTION 3.02. That the existing version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, is hereby repealed.

SECTION 3.03. Sections 3.01 and 3.02 of this act take effect July 1, 2004.

SECTION 3.04. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, be amended to read as follows:

Sec. 3332.04. The state board of career colleges and schools may appoint an executive director and such other staff as may be required for the performance of the board's duties and provide necessary facilities. In selecting an executive director, the board shall appoint an individual with a background or experience in the regulation of commerce, business, or education. The board may also arrange for services and facilities to be provided by the state board of education and the Ohio board of regents. All receipts of the board shall be deposited in the ~~career colleges and schools operating fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for the administration and enforcement of Chapter 3332. of the Revised Code. All investment earnings on the fund shall be credited to the~~ to the credit of the occupational licensing and regulatory fund.

SECTION 3.05. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, is hereby repealed.

SECTION 3.06. Sections 3.04 and 3.05 of this act take effect July 1, 2003.

SECTION 3.07. That the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a

dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.

(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115.

of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection.

(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.

(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity.

(11) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort

or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section 3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic,

optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit shelter or health care facility if, at the time of an alleged injury, death, or loss to person or property, the individuals involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation;

(c) Delivery of a baby.

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution,

sanitation, health, fire, zoning, or safety.

SECTION 3.08. That the existing version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.09. Sections 3.07 and 3.08 of this act take effect January 1, 2004.

SECTION 3.10. That the version of section 3734.44 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 3734.44. Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection, ~~the hazardous waste facility board~~, or a board of health:

(A) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence;

(B) If any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;

- (8) Arson;
 - (9) Burglary;
 - (10) Theft and related crimes;
 - (11) Forgery and fraudulent practices;
 - (12) Fraud in the offering, sale, or purchase of securities;
 - (13) Alteration of motor vehicle identification numbers;
 - (14) Unlawful manufacture, purchase, use, or transfer of firearms;
 - (15) Unlawful possession or use of destructive devices or explosives;
 - (16) A violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;
 - (17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;
 - (18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;
 - (19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;
 - (20) A violation of any provision of Chapter 2909. of the Revised Code;
 - (21) Any offense specified in Chapter 2921. of the Revised Code.
- (C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a community control sanction imposed under section 2929.15 of the Revised Code, from a post-release control sanction imposed under section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to July 1, 1996. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, ~~the~~

~~hazardous waste facility board~~, or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

(1) The nature and responsibilities of the position a convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions that may have contributed to the offense;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision;

(9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.

(D) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions;

(E) With respect to the approval of a permit, if the director ~~or the hazardous waste facility board~~ determines that current prosecutions or pending charges in any jurisdiction for any of the offenses enumerated in division (B) of this section against any individual or business concern required to be listed in the disclosure statement or shown by the

investigation to have a beneficial interest in the business of the applicant other than an equity interest or debt liability are of such magnitude that they prevent making the finding required under division (A) of this section, provided that at the request of the applicant or the individual or business concern charged, the director ~~or the hazardous waste facility board~~ shall defer decision upon the application during the pendency of the charge.

SECTION 3.11. That the existing version of section 3734.44 of the Revised Code that is scheduled to take effect on January 1, 2004, is hereby repealed.

SECTION 3.12. Sections 3.10 and 3.11 of this act take effect January 1, 2004.

SECTION 3.13. That the versions of sections 307.93, 2152.19, 2301.02, 2301.03, 2743.191, 2743.51, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 307.93. (A) The boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The center shall augment county and, where applicable, municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the sheriff of any of the contracting counties or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility who, in the opinion of the sentencing court, need programs of custody and rehabilitation not available at the county or municipal jail and by providing custody and rehabilitative programs in accordance with division (C) of this section, if applicable. The contract may include, but need not be limited to, provisions regarding the acquisition, construction, maintenance, repair, termination of operations, and administration of the center. The contract shall prescribe the manner of funding of, and debt assumption for, the center and the standards and

procedures to be followed in the operation of the center. Except as provided in division (H) of this section, the contracting counties and municipal corporations shall form a corrections commission to oversee the administration of the center. Members of the commission shall consist of the sheriff of each participating county, the president of the board of county commissioners of each participating county, the presiding judge of the court of common pleas of each participating county, or, if the court of common pleas of a participating county has only one judge, then that judge, the chief of police of each participating municipal corporation, the mayor or city manager of each participating municipal corporation, and the presiding judge or the sole judge of the municipal court of each participating municipal corporation. Any of the foregoing officers may appoint a designee to serve in the officer's place on the corrections commission. The standards and procedures shall be formulated and agreed to by the commission and may be amended at any time during the life of the contract by agreement of the parties to the contract upon the advice of the commission. The standards and procedures formulated by the commission shall include, but need not be limited to, designation of the person in charge of the center, the categories of employees to be employed at the center, the appointing authority of the center, and the standards of treatment and security to be maintained at the center. The person in charge of, and all persons employed to work at, the center shall have all the powers of police officers that are necessary for the proper performance of the duties relating to their positions at the center.

(B) Each board of county commissioners that enters a contract under division (A) of this section may appoint a building commission pursuant to section 153.21 of the Revised Code. If any commissions are appointed, they shall function jointly in the construction of a multicounty or multicounty-municipal correctional center with all the powers and duties authorized by law.

(C) Prior to the acceptance for custody and rehabilitation into a center established under this section of any persons who are designated by the department of rehabilitation and correction, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in section 5120.161 of the Revised Code, the corrections commission of a center established under this section shall enter into an agreement with the department of rehabilitation and correction under section 5120.161 of the Revised Code for the custody and rehabilitation in the center of persons who are designated by the department, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in that section, in exchange for a per diem fee per

person. Persons incarcerated in the center pursuant to an agreement entered into under this division shall be subject to supervision and control in the manner described in section 5120.161 of the Revised Code. This division does not affect the authority of a court to directly sentence a person who is convicted of or pleads guilty to a felony to the center in accordance with section 2929.16 of the Revised Code.

(D) Pursuant to section 2929.37 of the Revised Code, each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract under division (A) of this section may require a person who was convicted of an offense, who is under the charge of the sheriff of their county or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility, and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center as provided in that division, to reimburse the applicable county or municipal corporation for its expenses incurred by reason of the person's confinement in the center.

(E) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the corrections commission of a center may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center to pay a reception fee, a fee for medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.

(F)(1) The corrections commission of a center established under this section may establish a commissary for the center. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the center shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the center's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the center of necessary hygiene articles and writing materials.

(2) If a commissary is established, the corrections commission of a center established under this section shall establish a commissary fund for the center. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve

shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the center and to pay salary and benefits for employees of the center, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The corrections commission shall adopt rules and regulations for the operation of any commissary fund it establishes.

(G) In lieu of forming a corrections commission to administer a multicounty correctional center or a municipal-county or multicounty-municipal correctional center, the boards of county commissioners and the legislative authorities of the municipal corporations contracting to establish the center may also agree to contract for the private operation and management of the center as provided in section 9.06 of the Revised Code, but only if the center houses only misdemeanor inmates. In order to enter into a contract under section 9.06 of the Revised Code, all the boards and legislative authorities establishing the center shall approve and be parties to the contract.

(H) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center or is incarcerated in the center in the manner described in division (C) of this section, or if a person who is arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center pending trial, at the time of reception and at other times the officer, officers, or other person in charge of the operation of the center determines to be appropriate, the officer, officers, or other person in charge of the operation of the center may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The officer, officers, or other person in charge of the operation of the center may cause a convicted or accused offender in the center who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(I) As used in this section, "multicounty-municipal" means more than one county and a municipal corporation, or more than one municipal corporation and a county, or more than one municipal corporation and more than one county.

Sec. 2152.19. (A) If a child is adjudicated a delinquent child, the court

may make any of the following orders of disposition, in addition to any other disposition authorized or required by this chapter:

(1) Any order that is authorized by section 2151.353 of the Revised Code for the care and protection of an abused, neglected, or dependent child;

(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2152.41 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under section 2151.65 of the Revised Code;

(3) Place the child in a detention facility or district detention facility operated under section 2152.41 of the Revised Code, for up to ninety days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes. As a condition of community control in every case and in addition to any other condition that it imposes upon the child, the court shall require the child to abide by the law during the period of community control. As referred to in this division, community control includes, but is not limited to, the following sanctions and conditions:

(a) A period of basic probation supervision in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(b) A period of intensive probation supervision in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required each day to report to and leave a center or another approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(d) A period of community service of up to five hundred hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to two hundred hours for an act that would be a misdemeanor of the second, third, or fourth degree if committed by an adult, or up to thirty hours for an act that would be a minor misdemeanor if committed by an adult;

(e) A requirement that the child obtain a high school diploma, a

certificate of high school equivalence, vocational training, or employment;

(f) A period of drug and alcohol use monitoring;

(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(i) A requirement that the child serve monitored time;

(j) A period of house arrest with or without electronic monitoring;

(k) A period of electronic monitoring without house arrest or electronically monitored house arrest that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act.

A period of electronically monitored house arrest imposed under this division shall not extend beyond the child's twenty-first birthday. If a court imposes a period of electronically monitored house arrest upon a child under this division, it shall require the child: to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house arrest except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that can determine the child's location at designated times; to report periodically to a person designated by the court; and to enter into a written contract with the court agreeing to comply with all requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house arrest, and agreeing to waive the right to receive credit for any time served on electronically monitored house arrest toward the period of any other dispositional order imposed upon the child if the child violates any of the requirements of the dispositional order of electronically monitored house arrest. The court also may impose other reasonable requirements upon the child.

Unless ordered by the court, a child shall not receive credit for any time served on electronically monitored house arrest toward any other dispositional order imposed upon the child for the act for which was imposed the dispositional order of electronically monitored house arrest.

(l) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child or a suspension of the

registration of all motor vehicles registered in the name of the child. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or twelve or more school days in a school year;

(7)(a) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being a habitual truant, do either or both of the following:

(i) Require the child to participate in a truancy prevention mediation program;

(ii) Make any order of disposition as authorized by this section, except that the court shall not commit the child to a facility described in division (A)(2) or (3) of this section unless the court determines that the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code or division (A)(6) of this section.

(b) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, do either or both of the following:

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program;

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(8) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) A community corrections facility, if the child would be covered by

the definition of public safety beds for purposes of sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter.

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit:

(1) The child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, with the suspension and denial being in accordance with division (E)(1)(a), (c), (d), or (e) of section 2923.122 of the Revised Code.

(2) The child is adjudicated a delinquent child for committing an act that if committed by an adult would be a drug abuse offense or for violating division (B) of section 2917.11 of the Revised Code, with the suspension continuing until the child attends and satisfactorily completes a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending the program, the court shall retain any temporary instruction permit, probationary driver's license, or driver's license issued to the child, and the court shall return the permit or license when the child satisfactorily completes the program.

(C) The court may establish a victim-offender mediation program in which victims and their offenders meet to discuss the offense and suggest possible restitution. If the court obtains the assent of the victim of the delinquent act committed by the child, the court may require the child to participate in the program.

(D)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created a risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic

loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a public record. However, the court may furnish copies of the statement to the department of youth services if the delinquent child is committed to the department or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to this section shall be kept confidential and is not a public record. If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the court shall make available to the officer, for use in preparing the report, a copy of any victim impact statement regarding that person. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to this division shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this chapter.

The copy of a victim impact statement that is made available pursuant to this division to an officer preparing a criminal presentence investigation report shall be returned to the court by the officer immediately following its use in preparing the report.

(4) The department of youth services shall work with local probation departments and victim assistance programs to develop a standard victim impact statement.

(E) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, in addition to any order of disposition it makes under this section, the court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication of the child as an unruly or delinquent child for being an habitual or chronic truant may result in a criminal charge against the parent, guardian, or other person having care of

the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

(F)(1) During the period of a delinquent child's community control granted under this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court that places a delinquent child on community control under this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of community control if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court also shall provide the written notice described in division (E)(2) of this section to each parent, guardian, or custodian of the delinquent child who is described in that division.

(2) The court that places a child on community control under this section shall provide the child's parent, guardian, or other custodian with a written notice that informs them that authorized probation officers may conduct searches pursuant to division (E)(1) of this section. The notice shall specifically state that a permissible search might extend to a motor vehicle, another item of tangible or intangible personal property, or a place of residence or other real property in which a notified parent, guardian, or custodian has a right, title, or interest and that the parent, guardian, or custodian expressly or impliedly permits the child to use, occupy, or possess.

(G) If a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to this section and if the delinquent act for which the child is so committed is a sexually oriented offense, the court in the order of disposition shall do one of the following:

(1) Require that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code;

(2) Inform the person, organization, or entity that it is the preferred course of action in this state that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code and encourage the person, organization, or entity to provide that treatment.

Sec. 2301.03. (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, and January 2, 1997, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Franklin county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them. In addition to the judge's regular duties, the judge who is senior in point of service shall serve on the children services board and the county advisory board and shall be the administrator of the domestic relations division and its subdivisions and departments.

(B) In Hamilton county:

(1) The judge of the court of common pleas, whose term begins on January 1, 1957, and successors, and the judge of the court of common pleas, whose term begins on February 14, 1967, and successors, shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdiction conferred by those chapters.

(2) The judges of the court of common pleas whose terms begin on January 5, 1957, January 16, 1981, and July 1, 1991, and successors, shall be elected and designated as judges of the court of common pleas, division of domestic relations, and shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. On or after the first day of July and before the first day of August of 1991 and each year thereafter, a majority of the judges of the division of domestic relations shall elect one of the judges of the division as administrative judge of that division. If a majority of the judges of the division of domestic relations are unable for any reason to elect an administrative judge for the division before the first day of August, a majority of the judges of the Hamilton county court of common pleas, as soon as possible after that date, shall elect one of the judges of the division of domestic relations as administrative judge of that division. The term of the administrative judge shall begin on the earlier of the first day of August

of the year in which the administrative judge is elected or the date on which the administrative judge is elected by a majority of the judges of the Hamilton county court of common pleas and shall terminate on the date on which the administrative judge's successor is elected in the following year.

In addition to the judge's regular duties, the administrative judge of the division of domestic relations shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary by the judges in the discharge of their various duties.

The administrative judge of the division of domestic relations also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division, and shall fix the duties of its personnel. The duties of the personnel, in addition to those provided for in other sections of the Revised Code, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

The board of county commissioners shall appropriate the sum of money each year as will meet all the administrative expenses of the division of domestic relations, including reasonable expenses of the domestic relations judges and the division counselors and other employees designated to conduct the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, conciliation and counseling, and all matters relating to those cases and counseling, and the expenses involved in the attendance of division personnel at domestic relations and welfare conferences designated by the division, and the further sum each year as will provide for the adequate operation of the division of domestic relations.

The compensation and expenses of all employees and the salary and expenses of the judges shall be paid by the county treasurer from the money appropriated for the operation of the division, upon the warrant of the county auditor, certified to by the administrative judge of the division of domestic relations.

The summonses, warrants, citations, subpoenas, and other writs of the division may issue to a bailiff, constable, or staff investigator of the division or to the sheriff of any county or any marshal, constable, or police officer,

and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply insofar as they are applicable. When a summons, warrant, citation, subpoena, or other writ is issued to an officer, other than a bailiff, constable, or staff investigator of the division, the expense of serving it shall be assessed as a part of the costs in the case involved.

(3) The judge of the court of common pleas of Hamilton county whose term begins on January 3, 1997, and the successor to that judge whose term begins on January 3, 2003, shall each be elected and designated for one term only as the drug court judge of the court of common pleas of Hamilton county. The successors to the judge whose term begins on January 3, 2003, shall be elected and designated as judges of the general division of the court of common pleas of Hamilton county and shall not have the authority granted by division (B)(3) of this section. The drug court judge may accept or reject any case referred to the drug court judge under division (B)(3) of this section. After the drug court judge accepts a referred case, the drug court judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer to the drug court judge any case, and any companion cases, the judge determines meet the criteria described under divisions (B)(3)(a) and (b) of this section. If the drug court judge accepts referral of a referred case, the case, and any companion cases, shall be transferred to the drug court judge. A judge may refer a case meeting the criteria described in divisions (B)(3)(a) and (b) of this section that involves a violation of a condition of a community control sanction to the drug court judge, and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B)(3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves an offense for which a community control sanction may be imposed or is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.

(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(C) In Lorain county, the judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. They shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage

proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all other personnel of the domestic relations division.

(2) The judges of the court of common pleas whose terms begin on January 5, 1977, and January 2, 1991, and successors shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judges of the division in the discharge of their various duties.

The judge of the court of common pleas, juvenile division, senior in point of service, also shall designate the title, compensation, expense allowance, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the juvenile division is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in that judge's division necessitates it, the duties shall be performed by the judges of the other of those divisions.

(E) In Mahoning county:

(1) The judge of the court of common pleas whose term began on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, division of domestic relations, and shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary in the discharge of the various duties of the judge's office.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term began on January 2, 1969, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the

division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judge in the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties, or the volume of cases pending in that judge's division necessitates it, that judge's duties shall be performed by another judge of the court of common pleas.

(F) In Montgomery county:

(1) The judges of the court of common pleas whose terms begin on January 2, 1953, and January 4, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. These judges shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, 2301.18, and 2301.19 of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of

Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the court of common pleas, juvenile division, is sick, absent, or unable to perform that judge's duties or the volume of cases pending in that judge's division necessitates it, the duties of that judge may be performed by the judge or judges of the other of those divisions.

(G) In Richland county, ~~the~~:

(1) The judge of the court of common pleas whose term begins on January 1, 1957, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Richland county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. That judge shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and assigned to that judge and hear all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to that judge, except in cases that for some special reason are assigned to some other judge of the court of common pleas that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the division of domestic relations shall have assigned to that judge and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care

of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judge of the division of domestic relations shall have assigned to that judge and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

(2) The judge of the court of common pleas whose term begins on January 3, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Richland county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. The judge of the juvenile division shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any magistrates whom the judge considers necessary for the discharge of the judge's various duties.

The judge of the juvenile division also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling, conciliation, and mediation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(H) In Stark county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1959, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Stark county and shall be elected and designated as

judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases, except cases that are assigned to some other judge of the court of common pleas for some special reason, shall be assigned to the judges.

The judge of the division of domestic relations, second most senior in point of service, shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, and necessary referees required for the judge's respective court.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 of the Revised Code and with the assignment and division of the work of the division and the employment and supervision of all other personnel of the division, including, but not limited to, that judge's necessary referees, but excepting those employees who may be appointed by the judge second most senior in point of service. The senior judge further shall serve in every other position in which the statutes permit or require a juvenile judge to serve.

(I) In Summit county:

(1) The judges of the court of common pleas whose terms begin on January 4, 1967, and January 6, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them and hear all divorce, dissolution of marriage, legal separation, and annulment cases that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The judge of the division of domestic relations, senior in point of

service, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division, including any necessary referees, who are engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases. That judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and of any counseling and conciliation services that are available upon request to all persons, whether or not they are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term begins on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The juvenile judge shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge senior in point of service shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge senior in point of service also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judges of the court of common pleas whose terms begin on January 3, 1987, and January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county, shall be elected and designated as judges of the court of common

pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, who is senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments. The judge, senior in point of service, shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

- (a) Full charge of the employment, assignment, and supervision;
- (b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged

in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins on January 2, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lake county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judge of the court of common pleas whose term begins on January 4, 1979, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lake county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to

other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(N) In Erie county, the judge of the court of common pleas whose term begins on January 2, 1971, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge.

(O) In Greene county:

(1) The judge of the court of common pleas whose term begins on January 1, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.

The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the division. The judge also shall designate the title, compensation, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and the provision of counseling and conciliation services that the division considers necessary and makes

available to persons who request the services, whether or not the persons are parties in an action pending in the division. The compensation for the personnel shall be paid from the overall court budget and shall be included in the appropriations for the existing judges of the general division of the court of common pleas.

(2) The judge of the court of common pleas whose term begins on January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county, shall be elected and designated as judge of the court of common pleas, juvenile division, and, on or after January 1, 1995, shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdiction conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(3) If one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the general division necessitates it, the duties of that judge of the general division shall be performed by the judge of the division of domestic relations and the judge of the juvenile division.

(P) In Portage county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Portage county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall

be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Q) In Clermont county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Clermont county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(R) In Warren county, the judge of the court of common pleas, whose term begins January 1, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Warren county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall

be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(S) In Licking county, the judge of the court of common pleas, whose term begins January 1, 1991, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Licking county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(T) In Allen county, the judge of the court of common pleas, whose term begins January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Allen county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(U) In Medina county, the judge of the court of common pleas whose term begins January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Medina county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree

proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal

separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, regardless of whether the persons are parties to an action pending in the division, who request the services. When the judge hears a case to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state or a case that is commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, the duties of the personnel of the domestic relations division also include the handling, servicing, and investigation of those types of cases.

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark

county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that court.

(X) In Scioto county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Scioto county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Y) In Auglaize county, the judge of the probate and juvenile divisions of the Auglaize county court of common pleas also shall be the administrative judge of the domestic relations division of the court and shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. The judge shall have all powers as administrator of the domestic relations division and shall have charge of the personnel engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary for the discharge of the judge's various duties.

(Z)(1) In Marion county, the judge of the court of common pleas whose term begins on February 9, 1999, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Marion county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Except as provided in division (Z)(2) of this section and notwithstanding any other provision of

any section of the Revised Code, on and after February 9, 2003, the judge of the court of common pleas of Marion county whose term begins on February 9, 1999, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Marion county in addition to the powers previously specified in this division, and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (Z)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Marion county or the judge of the probate division of the court of common pleas of Marion county, whichever of those judges is senior in total length of service on the court of common pleas of Marion county, regardless of the division or divisions of service, shall serve as the clerk of the probate division of the court of common pleas of Marion county.

(3) On and after February 9, 2003, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Marion county, as being references to both "the probate division" and "the domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations- juvenile-probate division." On and after February 9, 2003, all references in law to "the clerk of the probate court" shall be construed, with respect to Marion county, as being references to the judge who is serving pursuant to division (Z)(2) of this section as the clerk of the probate division of the court of common pleas of Marion county.

(AA) In Muskingum county, the judge of the court of common pleas whose term begins on January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Muskingum county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned and hear all divorce, dissolution of marriage, legal separation, and annulment cases and all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge shall be assigned and hear all cases pertaining to paternity,

visitation, child support, the allocation of parental rights and responsibilities for the care of children, and the designation for the children of a place of residence and legal custodian, and all post-decree proceedings arising from any case pertaining to any of those matters.

(BB) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

(a) The payment of awards of reparations that are granted by the attorney general;

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;

(c) The compensation of witnesses as provided in division ~~(B)~~(J) of section 2743.65 of the Revised Code;

(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;

(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;

(f) The costs of investigation and decision-making as certified by the attorney general;

(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;

(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;

(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;

(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;

(k) The payment of costs of administering a DNA specimen collection

procedure pursuant to section 2152.74 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section and pursuant to section 2901.07 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code.

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the

time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

(i) A resident of the United States;

(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.

(b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;

(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

(iii) Was retired and receiving social security or any other retirement income;

(iv) Was sixty years of age or older;

(v) Was temporarily in another state for the purpose of receiving medical treatment;

(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;

(viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division

(A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

- (1) The offender;
- (2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;
- (3) Social security, medicare, and medicaid;
- (4) State-required, temporary, nonoccupational disability insurance;
- (5) Workers' compensation;
- (6) Wage continuation programs of any employer;
- (7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;
- (8) A contract providing prepaid hospital and other health care services, or benefits for disability;
- (9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;
- (10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

- (a) The person engaging in the conduct intended to cause personal

injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code.

(3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.

(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F)(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application. The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type ~~shall not exceed two and seven thousand five hundred dollars~~ in the aggregate for all immediate family members of a victim of that type.

(3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.

(4) "Allowable expense" includes attorney's fees not exceeding two thousand five hundred dollars, at a rate not exceeding one hundred fifty dollars per hour, incurred to successfully obtain a restraining order, custody

order, or other order to physically separate a victim from an offender, if the attorney has not received payment under section 2743.65 of the Revised Code for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's death.

(J) "Dependent's replacement services loss" means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

- (1) Criminally injurious conduct;
- (2) The good faith effort of any person to prevent criminally injurious conduct;
- (3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of ~~five~~ seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the

offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;

(c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means reasonable and necessary costs

of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.

(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.

(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to ~~a~~ the victim ~~within the first degree~~ by affinity or consanguinity.

(X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Sec. 2929.38. (A) A board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility described in division (A) of section 2929.37 of the Revised Code, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, to pay a reasonable fee for any medical or dental treatment or service requested by and provided to that prisoner, and to pay the fee for a random drug test assessed under division (E) of section 341.26, and division (E) of section 753.33 of the Revised Code. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided. No prisoner confined in the local detention facility shall be denied any necessary medical care because of inability to pay the fees.

(B) Upon assessment of a one-time reception fee as described in division (A) of this section, the provision of the requested medical treatment or service, or the assessment of a fee for a random drug test, payment of the required fee may be automatically deducted from the prisoner's inmate account in the business office of the local detention facility in which the prisoner is confined. If there is no money in the account, a deduction may be made at a later date during the prisoner's confinement if the money becomes

available in the account. If, after release, the prisoner has an unpaid balance of those fees, the sheriff, legislative authority of the municipal corporation, corrections commission, judicial corrections board, or other entity that operates the local detention facility described in division (A) of section 2929.37 of the Revised Code may bill the prisoner for the payment of the unpaid fees. Fees received for medical or dental treatment or services shall be paid to the commissary fund, if one exists for the facility, or if no commissary fund exists, to the general fund of the treasury of the political subdivision that incurred the expenses, in the same proportion as those expenses were borne by the political subdivision. Fees received for medical treatment or services that are placed in the commissary fund under this division shall be used for the same purposes as profits from the commissary fund, except that they shall not be used to pay any salary or benefits of any person who works in or is employed for the sole purpose of providing service to the commissary.

(C) Any fee paid by a person under this section shall be deducted from any medical or dental costs that the person is ordered to reimburse under a financial sanction imposed pursuant to section 2929.28 of the Revised Code or to repay under a policy adopted under section 2929.37 of the Revised Code.

(D) As used in this section, "inmate account" has the same meaning as in section 2969.21 of the Revised Code.

Sec. 4506.14. (A) Commercial driver's licenses shall expire as follows:

(1) Except as provided in division (A)(3) of this section, each such license issued to replace an operator's or chauffeur's license shall expire on the original expiration date of the operator's or chauffeur's license and, upon renewal, shall expire on the licensee's birthday in the fourth year after the date of issuance.

(2) Except as provided in division (A)(3) of this section, each such license issued as an original license to a person whose residence is in this state shall expire on the licensee's birthday in the fourth year after the date of issuance, and each such license issued to a person whose temporary residence is in this state shall expire in accordance with rules adopted by the registrar of motor vehicles. A license issued to a person with a temporary residence in this state is nonrenewable, but may be replaced with a new license within ninety days prior to its expiration upon the applicant's compliance with all applicable requirements.

(3) Each such license issued to replace the operator's or chauffeur's license of a person who is less than twenty-one years of age, and each such license issued as an original license to a person who is less than twenty-one

years of age, shall expire on the licensee's twenty-first birthday.

(B) No commercial driver's license shall be issued for a period longer than four years and ninety days. Except as provided in section 4507.12 of the Revised Code, the registrar may waive the examination of any person applying for the renewal of a commercial driver's license issued under this chapter, provided that the applicant presents either an unexpired commercial driver's license or a commercial driver's license that has expired not more than six months prior to the date of application.

(C) Subject to the requirements of this chapter and except as provided in division (A)(2) of this section in regard to a person whose temporary residence is in this state, every commercial driver's license shall be renewable ninety days before its expiration upon payment of the fees required by section 4506.08 of the Revised Code. Each person applying for renewal of a commercial driver's license shall complete the application form prescribed by section 4506.07 of the Revised Code and shall provide all certifications required. If the person wishes to retain an endorsement authorizing the person to transport hazardous materials, the person shall take and successfully complete the written test for the endorsement and shall submit to any background check required by federal law.

(D) Each person licensed as a driver under this chapter shall notify the registrar of any change in the person's address within ten days following that change. The notification shall be in writing on a form provided by the registrar and shall include the full name, date of birth, license number, county of residence, social security number, and new address of the person.

(E) Whoever violates division (D) of this section is guilty of a minor misdemeanor.

Sec. 4506.15. (A) No person shall do any of the following:

(1) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in the person's blood, breath, or urine;

(2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more;

(3) Drive a commercial motor vehicle while under the influence of a controlled substance;

(4) Knowingly leave the scene of an accident involving a commercial motor vehicle driven by the person;

(5) Use a commercial motor vehicle in the commission of a felony;

(6) Refuse to submit to a test under section 4506.17 of the Revised Code;

(7) Violate an out-of-service order issued under this chapter;

(8) Violate any prohibition described in divisions (A)(2) to (7) of this section while transporting hazardous materials;

(9) Use a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in section 3719.01 of the Revised Code;

(10) Drive a commercial motor vehicle in violation of any provision of sections 4511.61 to 4511.63 of the Revised Code or any federal or local law or ordinance pertaining to railroad-highway grade crossings.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.16. (A) Whoever violates division (A)(1) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, immediately shall be placed out-of-service for twenty-four hours, in addition to any disqualification required by this section and any other penalty imposed by the Revised Code.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:

(1) ~~Subject to division (B)(4) of this section, upon~~ Upon a first conviction for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, one year, ~~in addition to any other penalty imposed by the Revised Code;~~

(2) ~~Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years, in addition to any other penalty imposed by the Revised Code;~~

(3) ~~Upon and upon~~ a second conviction ~~for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, or any combination of such violations~~ arising from two or more separate incidents, the person shall be disqualified for life or for any other period of time as determined by the United States secretary of transportation and designated by the director of public safety by rule, ~~in addition to any other penalty imposed by the Revised Code;~~

~~(4)(2)~~ Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years;

~~(3)~~ Upon conviction of a violation of division (A)(5)(9) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction in connection with the manufacture, distribution, or dispensing

~~of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, the person shall be disqualified for life, in addition to any other penalty imposed by the Revised Code;~~

(4) Upon a first conviction for a violation of division (A)(10) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, occurring in a three-year period, the person shall be disqualified for not less than sixty days, upon a second conviction occurring in the three-year period, the person shall be disqualified for not less than one hundred twenty days, and upon a subsequent conviction occurring within a three-year period, the person shall be disqualified for not less than one year;

(5) Upon conviction of two serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for sixty days,~~in addition to any other penalty imposed by the Revised Code;~~

(6) Upon conviction of three serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for one hundred twenty days,~~in addition to any other penalty imposed by the Revised Code.~~

(C) For the purposes of this section, conviction of a violation for which disqualification is required may be evidenced by any of the following:

(1) A judgment entry of a court of competent jurisdiction in this or any other state;

(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers;

(3) A computer record obtained from or through the commercial driver's license information system;

(4) A computer record obtained from or through a state agency of this or any other state having statutory jurisdiction over commercial drivers or the records of commercial drivers.

(D) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles.

(E) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs.

(F) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division (B)(3), (4), (5), or (6) of this section and thereby is subject to disqualification, of the offense or offenses involved, of the length of time for

which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether the disqualification order is supported by reliable evidence. The registrar shall adopt rules to implement this division.

(G) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license is not otherwise suspended. A person whose commercial driver's license is suspended shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension.

(H) The disqualifications imposed under this section are in addition to any other penalty imposed by the Revised Code.

Sec. 4506.20. (A) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the information specified in section 4506.20 of the Revised Code.

(B) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked, or canceled by any state or a foreign jurisdiction;

(2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(C) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of section 4506.15 of the Revised Code.

(D)(1) Whoever violates division (A) or (B) of this section is guilty of a misdemeanor of the first degree.

(2) Whoever violates division (C) of this section may be assessed a fine not to exceed ten thousand dollars.

Sec. 4511.33. (A) Whenever any roadway has been divided into two or

more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle or trackless trolley shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle or trackless trolley shall not be driven in the center lane except when overtaking and passing another vehicle or trackless trolley where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle or trackless trolley is proceeding and is posted with signs to give notice of such allocation.

(3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles and trackless trolleys shall obey the directions of such signs.

(4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

Sec. 4511.62. (A)(1) Whenever any person driving a vehicle or trackless trolley approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.

(b) A crossing gate is lowered.

(c) A flagperson gives or continues to give a signal of the approach or

passage of a train.

(d) There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other vehicles, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.

(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.

(f) There is insufficient undercarriage clearance to safely negotiate the crossing.

(2) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to ~~(e)~~(f) of this section exist at the crossing.

(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4511.63. (A) ~~The operator of any motor vehicle or trackless trolley, carrying passengers, for hire, of any school bus, any vehicle described in division (C) of this section, or of any vehicle carrying explosives or flammable liquids as transporting a cargo or as such part of a cargo as material or materials required to constitute a hazard be placarded under 49 C.F.R. Parts 100-185,~~ before crossing at grade any track of a railroad, shall stop the vehicle ~~or trackless trolley~~ and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking, and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.

(B) This section does not apply at any ~~of the following:~~

~~(1) Street~~ street railway grade crossings within a municipal corporation, or to abandoned tracks, spur tracks, side tracks, and industrial tracks when the public utilities commission has authorized and approved the crossing of the tracks without making the stop required by this section;

~~(2) Through June 30, 1995, a street railway grade crossing where~~

~~out of service signs are posted in accordance with section 4955.37 of the Revised Code.~~

(C) This section applies to any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.

(D) For purposes of this section, "bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.

(E) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or section 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs

offered by community boards of mental health and county boards of mental retardation and developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to

the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in ~~division (A)(1) of~~ section 3301.31 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

SECTION 3.14. That the existing versions of sections 307.93, 2152.19, 2301.02, 2301.03, 2743.191, 2743.51, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004, are hereby repealed.

SECTION 3.15. Sections 3.13 and 3.14 of this act take effect January 1, 2004, except section 4511.75 of the Revised Code, as amended in those sections of this act, takes effect July 1, 2004. The amendment of section 4511.75 of the Revised Code by those sections of this act is not intended to supersede the amendment of the version of section 4511.75 of the Revised Code that is scheduled to take effect January 1, 2004.

SECTION 3.16. That the version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly, be amended to read as follows:

Sec. 5739.033. The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the ~~situs~~ sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 of the Revised Code. This section

applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or benefit realized.

(A) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 of the Revised Code, ~~the situs of all sales is the vendor's place of business.~~ shall be sourced as follows:

(1) If the consumer or ~~the consumer's~~ a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business ~~of the vendor, the situs of the sale is~~ shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, ~~the situs of the sale is~~ shall be sourced to the location known to the vendor where the consumer or ~~a~~ the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee, ~~known to the vendor.~~

(3) If divisions (A)(1) and (2) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records ~~of the vendor~~ that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (A)(1), (2), and (3) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (A)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, ~~the situs of the sale is~~ shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (A) of this section, "receive" means taking

possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(B)(1) Notwithstanding divisions (A)(1) to (5) of this section, a ~~manufacturer or other~~ consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases ~~tangible personal property~~ computer software delivered electronically or a service for use in business, and that knows at the time of purchase that ~~the property~~ such software or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase a multiple points of use exemption form prescribed by the tax commissioner disclosing this fact. On receipt of the multiple points of use exemption form, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the consumer must ~~collect, pay, or remit~~ the tax directly to the state.

(2) A consumer that delivers such form to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the ~~tangible personal property~~ computer software delivered electronically or service for use in business that is supported by the consumer's business records as they existed at the time of the sale.

(3) The multiple points of use exemption form shall remain in effect for all future sales by the vendor to the consumer until it is revoked in writing by the consumer, except as to the consumer's specific apportionment of a subsequent sale under division (B)(2) of this section and the facts existing at the time of the sale.

(C) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver a multiple points of use exemption form to a vendor. But such permit holder shall comply with division (B)(2) of this section in apportioning the tax due on ~~tangible personal property~~ computer software delivered electronically or a service used in business that will be concurrently available for use in more than one taxing jurisdiction.

~~(D) Except as provided in division (F) of this section:~~

~~(1) If the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs of the sale is the location of the telephone number or account as reflected in the records of the vendor.~~

~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated~~ (1) Notwithstanding divisions (A)(1) to (5) of this section, the purchaser of direct mail that is not a holder

of a direct payment permit shall provide to the vendor in conjunction with the purchase either a direct mail form prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of a direct mail form, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay that tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the vendor to the purchaser until it is revoked in writing.

(3) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the purchaser.

(4) If the purchaser of direct mail does not have a direct payment permit and does not provide the vendor with either a direct mail form or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a purchaser's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a purchaser of direct mail provides the vendor with documentation of direct payment authority, the purchaser shall not be required to provide a direct mail form or delivery information to the vendor.

(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is shall be sourced to the location where the lodging is located.

(F) ~~Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address (1) As used in this division and division (G) of this section, "transportation equipment" means any of the following:~~

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses

that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (F)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (A) of this section.

(G)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (A) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter used for titling the motor vehicle pursuant to section 4505.06 of the Revised Code at the time the lease or rental is consummated.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.

(b) In the case of an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the primary property location at the time the lease or rental is consummated.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.

(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or

rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.

(d) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) For a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the lease or rental shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (G) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

SECTION 3.17. That the existing version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly, is hereby repealed.

SECTION 3.18. The amendments in Sections 3.16 and 3.17 of this act provide for or are essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, those Sections are not subject to the referendum and go into effect January 1, 2004.

SECTION 3.19. Section 4723.063 of the Revised Code is hereby repealed,

effective December 31, 2013.

SECTION 3.20. That the version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 5101.28. (A) ~~The department of job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share~~ (1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department, or county agencies, and law enforcement agencies agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is either of the following:

~~(1) A a fugitive felon;~~

~~(2) Violating felon or violating~~ a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) ~~The~~ To the extent permitted by federal law, the department and county agencies shall provide information, except information directly related to the receipt of medical assistance or medical services, regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with

divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by ~~or~~ federal law to conduct an audit of or similar activity involving a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

(H) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section

2967.01 of the Revised Code.

SECTION 3.21. That the existing version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.22. Sections 3.20 and 3.21 of this act shall take effect January 1, 2004.

SECTION 3.23. That the version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 5743.45. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapters 5728., 5735., 5739., 5741., and 5747. of the Revised Code and subject to division (C) of this section, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training commission and who is engaged in the enforcement of those chapters. A separate journal entry shall be entered for each employee to whom that power is delegated. Each journal entry shall be a matter of public record and shall be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke the commissioner's delegation by journal entry. No employee of the department shall divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, except as may be required by the commissioner or a court.

(C)(1) The tax commissioner shall not delegate any investigation powers to an employee of the department of taxation pursuant to division (B) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee

previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The tax commissioner shall revoke the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The tax commissioner shall suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner shall revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner shall reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee under division (C)(2) of this section shall be made by journal entry pursuant to division (B) of this section. An employee to whom the delegation of investigation powers is reinstated under division (C)(2)(b) of this section shall not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

SECTION 3.24. That the existing version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.25. Sections 3.23 and 3.24 of this act take effect January 1,

2004.

SECTION 3.26. Section 5111.161 of the Revised Code is hereby repealed, effective October 1, 2006.

SECTION 4. Except as otherwise provided, all appropriation items (AI) in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2004 and the amounts in the second column are for fiscal year 2005.

FNDAI	AI TITLE	APPROPRIATIONS

SECTION 5. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J8 889-601	CPA Education Assistance	\$	209,510	\$	209,510
4K9 889-609	Operating Expenses	\$	1,010,583	\$	1,055,578
TOTAL GSF General Services Fund					
Group		\$	1,220,093	\$	1,265,088
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,220,093	\$	1,265,088

SECTION 6. PAY ACCRUED LEAVE LIABILITY

Accrued Leave Liability Fund Group

806 995-666	Accrued Leave Fund	\$	70,783,792	\$	78,296,200
807 995-667	Disability Fund	\$	47,269,465	\$	50,098,308
TOTAL ALF Accrued Leave Liability					
Fund Group		\$	118,053,257	\$	128,394,508

Agency Fund Group

808 995-668	State Employee Health	\$	312,724,593	\$	371,450,611
	Benefit Fund				
809 995-669	Dependent Care Spending	\$	3,691,169	\$	4,060,286
	Account				
810 995-670	Life Insurance Investment	\$	1,925,110	\$	1,992,489
	Fund				
811 995-671	Parental Leave Benefit Fund	\$	4,350,302	\$	4,785,332
TOTAL AGY Agency Fund Group					
TOTAL ALL BUDGET FUND GROUPS					
		\$	440,744,431	\$	510,683,226

ACCRUED LEAVE LIABILITY FUND

The foregoing appropriation item 995-666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 806), pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995-667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

DEPENDENT CARE SPENDING ACCOUNT

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

SECTION 7. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF 745-401	Ohio Military Reserve	\$	14,889	\$	15,188
GRF 745-404	Air National Guard	\$	1,915,177	\$	1,939,762
GRF 745-409	Central Administration	\$	3,976,734	\$	3,899,590
GRF 745-499	Army National Guard	\$	3,987,516	\$	4,086,222
GRF 745-502	Ohio National Guard Unit	\$	100,953	\$	102,973
	Fund				

Am. Sub. H. B. No. 95

1847

TOTAL GRF General Revenue Fund	\$	9,995,269	\$	10,043,735
General Services Fund Group				
534 745-612 Armory Improvements	\$	534,304	\$	534,304
536 745-620 Camp Perry/Buckeye Inn Operations	\$	1,094,970	\$	1,094,970
537 745-604 ONG Maintenance	\$	219,826	\$	219,826
TOTAL GSF General Services Fund Group	\$	1,849,100	\$	1,849,100
Federal Special Revenue Fund Group				
3E8 745-628 Air National Guard Operations and Maintenance Agreement	\$	11,901,459	\$	12,174,760
3R8 745-603 Counter Drug Operations	\$	25,000	\$	25,000
3S0 745-602 Higher Ground Training	\$	10,937	\$	10,937
341 745-615 Air National Guard Base Security	\$	2,181,960	\$	2,312,877
342 745-616 Army National Guard Service Agreement	\$	8,109,221	\$	8,686,892
TOTAL FED Federal Special Revenue Fund Group	\$	22,228,577	\$	23,210,466
State Special Revenue Fund Group				
528 745-605 Marksmanship Activities	\$	66,078	\$	66,078
TOTAL SSR State Special Revenue Fund Group	\$	66,078	\$	66,078
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379

SECTION 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF 100-402 Unemployment Compensation	\$	100,000	\$	100,000
GRF 100-405 Agency Audit Expenses	\$	350,000	\$	350,000
GRF 100-406 County & University Human Resources Services	\$	400,000	\$	400,000
GRF 100-410 Veterans' Records Conversion	\$	19,729	\$	47,123
GRF 100-417 MARCS	\$	900,000	\$	900,000
GRF 100-418 Digital Government	\$	3,446,645	\$	3,643,649
GRF 100-419 Network Security	\$	3,000,000	\$	1,000,000
GRF 100-421 OAKS Project Implementation	\$	450,000	\$	450,000
GRF 100-433 State of Ohio Computer Center	\$	4,936,073	\$	4,991,719
GRF 100-439 Equal Opportunity Certification Programs	\$	661,531	\$	661,531
GRF 100-447 OBA - Building Rent Payments	\$	105,675,000	\$	117,027,700
GRF 100-448 OBA - Building Operating Payments	\$	25,445,550	\$	26,003,250
GRF 100-449 DAS - Building Operating Payments	\$	4,264,675	\$	4,460,417
GRF 100-451 Minority Affairs	\$	50,000	\$	50,000
GRF 100-734 Major Maintenance - State Bldgs	\$	45,000	\$	45,000
GRF 102-321 Construction Compliance	\$	1,250,000	\$	1,250,000
GRF 130-321 State Agency Support Services	\$	2,778,000	\$	2,522,000

TOTAL GRF General Revenue Fund		\$	153,772,203	\$	163,902,389
General Services Fund Group					
112	100-616	Director's Office	\$	5,503,547	\$ 5,503,547
115	100-632	Central Service Agency	\$	431,176	\$ 448,574
117	100-644	General Services Division - Operating	\$	7,622,861	\$ 8,653,304
122	100-637	Fleet Management	\$	4,169,589	\$ 4,352,849
125	100-622	Human Resources Division - Operating	\$	21,489,800	\$ 21,764,800
127	100-627	Vehicle Liability Insurance	\$	3,363,894	\$ 3,344,644
128	100-620	Collective Bargaining	\$	3,410,952	\$ 3,410,952
130	100-606	Risk Management Reserve	\$	217,904	\$ 223,904
131	100-639	State Architect's Office	\$	6,510,117	\$ 6,473,867
132	100-631	DAS Building Management	\$	10,921,019	\$ 10,721,430
188	100-649	Equal Opportunity Division - Operating	\$	1,082,353	\$ 1,103,697
201	100-653	General Services Resale Merchandise	\$	1,533,000	\$ 1,553,000
210	100-612	State Printing	\$	6,160,200	\$ 6,674,421
4P3	100-603	Departmental MIS Services	\$	6,077,535	\$ 6,233,638
427	100-602	Investment Recovery	\$	4,023,473	\$ 3,953,216
5C2	100-605	MARCS Administration	\$	6,632,527	\$ 9,268,178
5C3	100-608	Skilled Trades	\$	1,840,327	\$ 1,905,655
5D7	100-621	Workforce Development	\$	12,000,000	\$ 12,000,000
5L7	100-610	Professional Development	\$	2,700,000	\$ 2,700,000
5V6	100-619	Employee Educational Development	\$	809,071	\$ 811,129
TOTAL GSF General Services Fund Group		\$	106,499,345	\$	111,100,805
Intragovernmental Service Fund Group					
133	100-607	Information Technology Fund	\$	100,987,526	\$ 102,272,838
4N6	100-617	Major IT Purchases	\$	15,452,006	\$ 10,617,166
TOTAL ISF Intragovernmental Service Fund Group		\$	116,439,532	\$	112,890,004
Agency Fund Group					
113	100-628	Unemployment Compensation Pass Through	\$	4,200,000	\$ 4,200,000
124	100-629	Payroll Deductions	\$	1,971,000,000	\$ 2,050,000,000
TOTAL AGY Agency Fund Group		\$	1,975,200,000	\$	2,054,200,000
Holding Account Redistribution Fund Group					
R08	100-646	General Services Refunds	\$	20,000	\$ 20,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	20,000	\$	20,000
TOTAL ALL BUDGET FUND GROUPS		\$	2,351,931,080	\$	2,442,113,198

SECTION 8.01. AGENCY AUDIT EXPENSES

The foregoing appropriation item 100-405, Agency Audit Expenses, shall be used for auditing expenses designated in division (A)(1) of section 117.13 of the Revised Code for those state agencies audited on a biennial basis.

SECTION 8.02. OHIO BUILDING AUTHORITY

The foregoing appropriation item 100-447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$222,702,700. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100-448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,448,800.

The payments to the Ohio Building Authority are for the purpose of paying the expenses of agencies that occupy space in the various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

SECTION 8.03. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2004 and 2005.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the

state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

SECTION 8.04. CENTRAL SERVICE AGENCY FUND

The Director of Budget and Management may transfer up to \$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 2005 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The Director of Budget and Management may transfer up to \$40,700 in fiscal year 2004 and up to \$41,200 in fiscal year 2005 from the State Medical Board Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 115). The appropriation item 100-632, Central Service Agency, shall be used to purchase the necessary equipment, products, and services to maintain a local area network for the professional licensing boards, and to support their licensing applications in fiscal years 2004 and 2005. The amount of the cash transfer is appropriated to appropriation item 100-632, Central Service Agency.

SECTION 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

SECTION 8.06. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund

(Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 8.07. MERCHANDISE FOR RESALE

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for resale, which is administered by the General Services Division. Deposits to the fund may comprise the cost of merchandise for resale and shipping fees.

SECTION 8.08. DEPARTMENTAL MIS

The foregoing appropriation item 100-603, Departmental MIS Services, may be used to pay operating expenses of management information systems activities in the Department of Administrative Services. The Department of Administrative Services shall establish charges for recovering the costs of management information systems activities. These charges shall be deposited to the credit of the Departmental MIS Services Fund (Fund 4P3).

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer up to \$1,000,000 of fiscal year 2004 appropriations and up to \$1,000,000 of fiscal year 2005 appropriations from appropriation item 100-603, Departmental MIS Services, to any Department of Administrative Services non-General Revenue Fund appropriation item. The appropriations transferred shall be used to make payments for management information systems services.

SECTION 8.09. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 427) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$1,958,155 in fiscal year 2004 and up to \$2,049,162 in fiscal year 2005

shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program pursuant to Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal year 2005 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds pursuant to division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated.

Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$2,811,197 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the General Services Fund (Fund 117) during the biennium beginning July 1, 2003, and ending June 30, 2005. The cash transferred to the General Services Fund shall be used to pay the operating expenses of the Competitive Sealed Proposal Program, to provide operating cash for the General Services Fund, and to provide operating cash for the newly created rate pools for Real Estate Leasing and Interior Design Services.

SECTION 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM

Notwithstanding division (B)(3) of section 4505.09 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, may transfer up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 2005 from the Automated Title Processing System (Fund 849) to the Multi-Agency Radio Communications Systems Administration Fund (Fund 5C2). The cash transferred to the Multi-Agency Radio Communications Systems Administration Fund shall be used for the development of the MARCS system.

Effective with the implementation of the Multi-Agency Radio Communications System, the Director of Administrative Services shall

collect user fees from participants in the system. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communications System Steering Committee and the Director of Budget and Management, shall determine the amount of the fees and the manner by which the fees shall be collected. Such user charges shall comply with the applicable cost principles issued by the federal Office of Management and Budget. All moneys from user charges and fees shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communications System Administration Fund (Fund 5C2). All interest income derived from the investment of the fund shall accrue to the fund.

SECTION 8.11. WORKFORCE DEVELOPMENT FUND

There is hereby established in the state treasury the Workforce Development Fund (Fund 5D7). The foregoing appropriation item 100-621, Workforce Development, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be used to pay the costs of the Workforce Development Program, if any, as previously established by Article 37 of the contract between the State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, and as modified by any successor labor contract between the State of Ohio and OCSEA/AFSCME. The program shall be administered in accordance with the contract. Revenues shall accrue to the fund as specified in the contract. The fund may be used to pay direct and indirect costs of the program that are attributable to staff, consultants, and service providers. All income derived from the investment of the fund shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

SECTION 8.12. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100-610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L7) pursuant to section 124.182 of the Revised Code.

SECTION 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT

There is hereby established in the state treasury the Employee

Educational Development Fund (Fund 5V6). The foregoing appropriation item 100-619, Employee Educational Development, shall be used to make payments from the fund. The fund shall be used to pay the costs of the administration of educational programs per existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association; National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be administered in accordance with the applicable sections of the collective bargaining agreements between the State and the aforementioned unions. The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the educational programs. Receipts for these charges shall be deposited into the Employee Educational Development Fund. All income derived from the investment of the funds shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated with the approval of the Director of Budget and Management.

Upon the request of the Director of Administrative Services, the Director of Budget and Management shall transfer any cash balances attributable to educational programs per existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association; National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15 from the Human Resources Services Fund (Fund 125) to the Employee Educational Development Fund (Fund 5V6).

SECTION 8.14. MAJOR IT PURCHASES

The Director of Administrative Services shall compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from appropriation item 100-607, Information Technology Fund; appropriation item 100-617, Major IT Purchases; and appropriation item CAP-837, Major IT Purchases, which is recovered by the Department of Administrative Services as part of the rates charged by the

Information Technology Fund (Fund 133) created in section 125.15 of the Revised Code. The Director of Budget and Management may transfer cash in an amount not to exceed the amount of amortization computed from the Information Technology Fund (Fund 133) to the Major IT Purchases Fund (Fund 4N6).

SECTION 8.15. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of the Director of Budget and Management, may establish an information technology assessment for the purpose of recovering the cost of selected infrastructure and statewide programs. Such assessment shall comply with applicable cost principles issued by the federal Office of Management and Budget. The information technology assessment shall be charged to all organized bodies, offices, or agencies established by the laws of the state for the exercise of any function of state government except for the General Assembly, any legislative agency, the Supreme Court, the other courts of record in Ohio, or any judicial agency, the Adjutant General, the Bureau of Workers' Compensation, and institutions administered by a board of trustees. Any state-entity exempted by this section may utilize the infrastructure or statewide program by participating in the information technology assessment. All charges for the information technology assessment shall be deposited to the credit of the Information Technology Fund (Fund 133) created in section 125.15 of the Revised Code.

SECTION 8.16. UNEMPLOYMENT COMPENSATION FUND

The foregoing appropriation item 100-628, Unemployment Compensation Pass Through, shall be used to make payments from the Unemployment Compensation Fund (Fund 113), pursuant to section 4141.241 of the Revised Code. If it is determined that additional amounts are necessary, such amounts are hereby appropriated.

SECTION 8.17. PAYROLL WITHHOLDING FUND

The foregoing appropriation item 100-629, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 124). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, such amounts are hereby appropriated.

SECTION 8.18. GENERAL SERVICES REFUNDS

The foregoing appropriation item 100-646, General Services Refunds, shall be used to hold bid guarantee and building plans and specifications deposits until they are refunded. The Director of Administrative Services may request that the Director of Budget and Management transfer cash received for the costs of providing the building plans and specifications to contractors from the General Services Refunds Fund to the State Architect's Office Fund (Fund 131). Prior to the transfer of cash, the Director of Administrative Services shall certify that such amounts are in excess of amounts required for refunding deposits and are directly related to costs of producing building plans and specifications. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100-447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

SECTION 8.21. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs in the General Services Fund (Fund 117) and the State Printing Fund (Fund 210).

SECTION 8.22. During the period beginning July 1, 2003, and ending June 30, 2005, and notwithstanding section 123.10 of the Revised Code, the Director of Administrative Services shall collect no commissions or fees in connection with any of the following:

(A) A lease to which the Department of Administrative Services is a party that is in effect on the effective date of this section;

(B) A lease for which negotiations have commenced between the Department and another party prior to July 1, 2003;

(C) A lease regarding which the Department did not inform all interested parties prior to negotiations that the Department would be requesting real estate commissions or fees.

SECTION 8.23. CENTRALIZED FLEET MANAGEMENT PROGRAM

Of the foregoing appropriation item 130-321, State Agency Support Services, \$378,000 in fiscal year 2004 and \$122,000 in fiscal year 2005 shall be used for the centralized fleet management program.

SECTION 8.24. ASSESSMENTS ON STATE AGENCIES, BOARDS, AND COMMISSIONS

For fiscal year 2004 and fiscal year 2005, the Director of Administrative Services shall not increase rates, charges, or fees for centralized services provided by the Department of Administrative Services and specified in Payroll Letter 824, effective July 17, 2002. This provision shall not apply to payroll deductions for employee health, vision, and dental benefits; employers' share of pension contributions; or amounts deducted for accrued leave or disability leave. Nor shall this provision apply to charges or deductions for programs operated by the Department of Administrative Services in accordance with any collective bargaining agreement.

The Director of Administrative Services shall not increase rates or charges assessed to state agencies, boards, and commissions for other centralized services provided by the General Services Division and in effect

as of June 30, 2003. However, the rate charged for mail services may be adjusted to account for increases in federal postage rates.

SECTION 9. AAM COMMISSION ON AFRICAN AMERICAN MALES

General Revenue Fund

GRF 036-100	Personal Services	\$	212,492	\$	218,610
GRF 036-200	Maintenance	\$	50,180	\$	50,180
GRF 036-300	Equipment	\$	4,000	\$	4,000
GRF 036-501	CAAM Awards and Scholarships	\$	8,143	\$	765
GRF 036-502	Community Projects	\$	25,185	\$	26,445
TOTAL GRF General Revenue Fund		\$	300,000	\$	300,000

State Special Revenue Fund Group

4H3 036-601	Commission on African American Males - Gifts/Grants	\$	10,000	\$	10,000
TOTAL SSR State Special Revenue Fund Group		\$	10,000	\$	10,000
TOTAL ALL BUDGET FUND GROUPS		\$	310,000	\$	310,000

COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW

Annually, not later than the thirty-first day of December, the Commission on African American Males shall internally prepare and submit to the chairperson and ranking minority member of the Human Services Subcommittee of the Finance and Appropriations Committee of the House of Representatives a report that demonstrates the progress that has been made toward meeting the Commission's mission statement.

From the foregoing appropriations, the Commission on African American Males shall provide in each fiscal year \$50,000 to the Cincinnati State Community College to purchase books and equipment in order to furnish the Cincinnati State William F. Bowen Room that will honor Ohio's African-American legislators.

SECTION 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029-321	Operating Expenses	\$	363,769	\$	379,769
TOTAL GRF General Revenue Fund		\$	363,769	\$	379,769
TOTAL ALL BUDGET FUND GROUPS		\$	363,769	\$	379,769

OPERATING

The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule

Review.

SECTION 11. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490-321	Operating Expenses	\$	2,308,867	\$	2,308,867
GRF 490-403	PASSPORT	\$	81,008,877	\$	103,746,032
GRF 490-405	Golden Buckeye Card	\$	297,628	\$	297,628
GRF 490-406	Senior Olympics	\$	16,636	\$	16,636
GRF 490-409	Ohio Community Service Council Operations	\$	228,048	\$	228,048
GRF 490-410	Long-Term Care Ombudsman	\$	729,685	\$	729,685
GRF 490-411	Senior Community Services	\$	11,271,431	\$	11,271,431
GRF 490-412	Residential State Supplement	\$	9,960,356	\$	9,960,356
GRF 490-414	Alzheimers Respite	\$	4,346,689	\$	4,346,689
GRF 490-416	Transportation for Elderly	\$	138,369	\$	138,369
GRF 490-419	Prescription Drug Discount Program	\$	169,986	\$	169,986
GRF 490-506	Senior Volunteers	\$	375,471	\$	375,471
TOTAL GRF General Revenue Fund		\$	110,852,043	\$	133,589,198

General Services Fund Group

480 490-606	Senior Citizens Services Special Events	\$	372,677	\$	372,677
5T4 490-615	Aging Network Support	\$	252,830	\$	252,830
TOTAL GSF General Services Fund Group		\$	625,507	\$	625,507

Federal Special Revenue Fund Group

3C4 490-607	PASSPORT	\$	142,926,054	\$	151,954,474
3M3 490-611	Federal Aging Nutrition	\$	25,541,095	\$	26,818,149
3M4 490-612	Federal Supportive Services	\$	26,305,294	\$	27,094,453
3R7 490-617	Ohio Community Service Council Programs	\$	8,951,150	\$	8,905,150
322 490-618	Older Americans Support Services	\$	12,904,949	\$	13,298,626
TOTAL FED Federal Special Revenue Fund Group		\$	216,628,542	\$	228,070,852

State Special Revenue Fund Group

4C4 490-609	Regional Long-Term Care Ombudsman Program	\$	829,321	\$	829,321
4J4 490-610	PASSPORT/Residential State Supplement	\$	33,268,052	\$	33,263,984
4U9 490-602	PASSPORT Fund	\$	5,500,000	\$	5,500,000
5W1 490-616	Resident Services Coordinator Program	\$	250,000	\$	250,000
624 490-604	OCSC Community Support	\$	2,500	\$	2,500
TOTAL SSR State Special Revenue Fund Group		\$	39,849,873	\$	39,845,805
TOTAL ALL BUDGET FUND GROUPS		\$	367,955,965	\$	402,131,362

SECTION 11.01. PRE-ADMISSION REVIEW FOR NURSING

FACILITY ADMISSION

Pursuant to sections 5101.751 and 5101.754 of the Revised Code and an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under sections 5101.75 and 5111.204 of the Revised Code. Of the foregoing appropriation item 490-403, PASSPORT, the Department of Aging may use not more than \$2,511,309 in fiscal year 2004 and \$2,574,092 in fiscal year 2005 to perform the assessments for persons not eligible for Medicaid in accordance with the department's interagency agreement with the Department of Job and Family Services and to assist individuals in planning for their long-term health care needs.

SECTION 11.02. PASSPORT

Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may be used to assess clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver-funded PASSPORT Home Care Program. Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT program.

The foregoing appropriation item 490-607, PASSPORT, shall be used to provide the federal matching share for all PASSPORT program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement.

SENIOR COMMUNITY SERVICES

Of the foregoing appropriation item 490-411, Senior Community Services, \$300,000 shall be allocated to the Visiting Nurses Association of Cleveland.

The remainder of the foregoing appropriation item 490-411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with block grant funds, including, where possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMERS RESPITE

The foregoing appropriation item 490-414, Alzheimers Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

TRANSPORTATION FOR ELDERLY

The foregoing appropriation item 490-416, Transportation for Elderly, shall be used for noncapital expenses related to transportation services for the elderly that provide access to such things as healthcare services, congregate meals, socialization programs, and grocery shopping. The funds pass through and shall be administered by the Area Agencies on Aging. The appropriation shall be allocated to the following agencies:

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Vocational Services/Cincinnati;

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Community Center of Cleveland;

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Wexner Heritage Village/Columbus;

(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in fiscal year 2005 to the Jewish Family Services of Dayton;

(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center of Akron;

(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in fiscal year 2005 to the Jewish Community Center/Youngstown;

(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in fiscal year 2005 to the Jewish Community Center/Canton;

(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center/Sylvania.

Agencies receiving funding from appropriation item 490-416, Transportation for Elderly, shall coordinate services with other local service agencies.

RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:

(A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;

(B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;

(C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;

(D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code;

(E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;

(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;

(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.

The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS

The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.

LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.

PRESCRIPTION DRUG DISCOUNT PROGRAM

The foregoing appropriation item 490-419, Prescription Drug Discount Program, shall be used to administer a prescription drug discount program.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS

The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Programs, shall be used solely to pay the costs of operating the

regional long-term care ombudsman programs.

PASSPORT/RESIDENTIAL STATE SUPPLEMENT

Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to \$2,835,000 each fiscal year may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES

Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Supportive Services, and 490-618, Older Americans Support Services, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report such transfers to the Controlling Board at the next regularly scheduled meeting of the board.

OHIO COMMUNITY SERVICE COUNCIL

The foregoing appropriation items 490-409, Ohio Community Service Council Operations, and 490-617, Ohio Community Service Council Programs, shall be used in accordance with section 121.40 of the Revised Code.

SECTION 12. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700-321	Operating Expenses	\$	2,737,665	\$	2,771,628
GRF 700-401	Animal Disease Control	\$	4,121,815	\$	4,121,815
GRF 700-402	Amusement Ride Safety	\$	278,767	\$	275,943
GRF 700-403	Dairy Division	\$	1,494,597	\$	1,494,153
GRF 700-404	Ohio Proud	\$	197,727	\$	197,229
GRF 700-405	Animal Damage Control	\$	94,954	\$	94,954
GRF 700-406	Consumer Analytical Lab	\$	819,281	\$	872,241
GRF 700-407	Food Safety	\$	999,042	\$	999,042
GRF 700-409	Farmland Preservation	\$	256,993	\$	256,993
GRF 700-410	Plant Industry	\$	1,109,867	\$	1,107,677
GRF 700-411	International Trade and Market Development	\$	621,049	\$	517,524
GRF 700-412	Weights and Measures	\$	914,137	\$	909,120
GRF 700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299
GRF 700-414	Concentrated Animal Feeding Facilities Advisory Committee	\$	16,521	\$	16,086
GRF 700-415	Poultry Inspection	\$	270,645	\$	267,743
GRF 700-418	Livestock Regulation Program	\$	1,306,911	\$	1,306,911

Am. Sub. H. B. No. 95

1864

GRF 700-424	Livestock Testing and Inspections	\$	123,347	\$	123,347
GRF 700-499	Meat Inspection Program - State Share	\$	4,651,611	\$	4,696,889
GRF 700-501	County Agricultural Societies	\$	381,091	\$	381,091
TOTAL GRF General Revenue Fund		\$	20,942,138	\$	20,986,685
Federal Special Revenue Fund Group					
3J4 700-607	Indirect Cost	\$	938,785	\$	949,877
3R2 700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000
326 700-618	Meat Inspection Service - Federal Share	\$	4,876,904	\$	4,951,291
336 700-617	Ohio Farm Loan Revolving Fund	\$	181,774	\$	181,774
382 700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000
TOTAL FED Federal Special Revenue Fund Group		\$	9,797,463	\$	10,007,942
State Special Revenue Fund Group					
4C9 700-605	Feed, Fertilizer, and Lime Inspection	\$	986,765	\$	1,008,541
4D2 700-609	Auction Education	\$	30,476	\$	30,476
4E4 700-606	Utility Radiological Safety	\$	73,059	\$	73,059
4P7 700-610	Food Safety Inspection	\$	575,797	\$	582,711
4R0 700-636	Ohio Proud Marketing	\$	40,300	\$	38,300
4R2 700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183
4T6 700-611	Poultry and Meat Inspection	\$	46,162	\$	47,294
4T7 700-613	International Trade and Market Development Rotary	\$	41,238	\$	42,000
4V5 700-615	Animal Industry Lab Fees	\$	711,944	\$	711,944
494 700-612	Agricultural Commodity Marketing Program	\$	170,077	\$	170,220
496 700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099
497 700-627	Commodity Handlers Regulatory Program	\$	664,118	\$	664,118
498 700-628	Commodity Indemnity Fund	\$	250,000	\$	250,000
5B8 700-629	Auctioneers	\$	291,672	\$	365,390
5H2 700-608	Metrology Lab	\$	105,879	\$	108,849
5L8 700-604	Livestock Management Program	\$	250,000	\$	250,000
578 700-620	Ride Inspection Fees	\$	497,000	\$	497,000
579 700-630	Scale Certification	\$	168,785	\$	171,677
652 700-634	Laboratory Services	\$	1,043,444	\$	1,074,447
669 700-635	Pesticide Program	\$	2,243,232	\$	2,243,232
TOTAL SSR State Special Revenue Fund Group		\$	10,418,650	\$	10,584,540
Clean Ohio Fund Group					
057 700-632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000
TOTAL CLR Clean Ohio Fund Group		\$	149,000	\$	149,000
Holding Account Redistribution Fund Group					
XXX 700-XXX	Farm Service Electronic Filing	\$	60,000	\$	60,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	60,000	\$	60,000

TOTAL ALL BUDGET FUND GROUPS \$ 41,367,251 \$ 41,788,167

ANIMAL DAMAGE CONTROL

Of the foregoing appropriation item 700-405, Animal Damage Control, \$50,000 shall be used in each fiscal year for coyote and black vulture indemnification.

INTERNATIONAL TRADE AND MARKET DEVELOPMENT

Of the foregoing appropriation item 700-411, International Trade and Market Development, \$100,000 shall be used in fiscal year 2004 for the Ohio-Israel Agricultural Initiative.

FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to \$1,500,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700-632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

FARM SERVICE ELECTRONIC FILING

As soon as possible on or after July 1, 2003, the Director of Budget and Management shall make a one-time cash transfer of \$60,000 from Fund 382, Cooperative Contracts, to Fund XXX, Farm Service Electronic Filing Fund, in fiscal year 2004. The Farm Service Electronic Filing Fund shall be administered by the Department of Agriculture.

SECTION 13. AIR QUALITY DEVELOPMENT AUTHORITY

General Revenue Fund

GRF 898-402	Coal Development Office	\$	588,041	\$	599,802
GRF 898-901	Coal R&D Gen Obligation	\$	7,231,200	\$	9,185,100
	Debt Service				
TOTAL GRF General Revenue Fund		\$	7,819,241	\$	9,784,902

Agency Fund Group

4Z9 898-602	Small Business Ombudsman	\$	233,482	\$	233,482
5A0 898-603	Small Business Assistance	\$	197,463	\$	197,463
570 898-601	Operating Expenses	\$	243,383	\$	243,383

Am. Sub. H. B. No. 95

1866

TOTAL AGY Agency Fund Group	\$	674,328	\$	674,328
Coal Research/Development Fund				
046 898-604 Coal Research and Development Fund	\$	13,168,357	\$	13,168,357
TOTAL 046 Coal Research/Development Fund	\$	13,168,357	\$	13,168,357
TOTAL ALL BUDGET FUND GROUPS	\$	21,661,926	\$	23,627,587

COAL DEVELOPMENT OFFICE

The foregoing appropriation item GRF 898-402, Coal Development Office, shall be used for the administrative costs of the Coal Development Office.

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item GRF 898-901, Coal R & D Gen Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.07 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SCIENCE AND TECHNOLOGY COLLABORATION

The Air Quality Development Authority shall work in close collaboration with the Department of Development, the Board of Regents, and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for:

- (1) The scientific merit of activities supported by the program;

(2) The relevance of the program's activities to commercial opportunities in the private sector;

(3) The private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and

(4) The ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds.

All programs listed in the preceding paragraph shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

SECTION 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund

GRF 038-321	Operating Expenses	\$	1,200,293	\$	1,200,293
GRF 038-401	Treatment Services	\$	36,762,306	\$	36,762,306
GRF 038-404	Prevention Services	\$	1,055,033	\$	1,055,033
TOTAL GRF General Revenue Fund		\$	39,017,632	\$	39,017,632

General Services Fund

5T9 038-616	Problem Gambling Services	\$	60,000	\$	60,000
TOTAL GSF General Services Fund Group		\$	60,000	\$	60,000

Federal Special Revenue Fund Group

3G3 038-603	Drug Free Schools	\$	3,500,000	\$	3,500,000
3G4 038-614	Substance Abuse Block Grant	\$	67,335,499	\$	68,079,223
3H8 038-609	Demonstration Grants	\$	7,093,075	\$	7,093,075
3J8 038-610	Medicaid	\$	30,000,000	\$	30,000,000
3N8 038-611	Administrative Reimbursement	\$	500,000	\$	500,000

TOTAL FED Federal Special Revenue Fund Group		\$	108,428,574	\$	109,172,298

State Special Revenue Fund Group

475 038-621	Statewide Treatment and Prevention	\$	15,191,182	\$	15,191,182
5P1 038-615	Credentialing	\$	225,000	\$	0
689 038-604	Education and Conferences	\$	280,000	\$	280,000
TOTAL SSR State Special Revenue Fund Group		\$	15,696,182	\$	15,471,182
TOTAL ALL BUDGET FUND GROUPS		\$	163,202,388	\$	163,721,112

TREATMENT SERVICES

Of the foregoing appropriation item 038-401, Treatment Services, not

more than \$8,190,000 shall be used by the Department of Alcohol and Drug Addiction Services for program grants for priority populations in each year of the biennium.

AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY

Of the foregoing appropriation item 038-401, Treatment Services, \$4 million in each fiscal year shall be allocated for services to families, adults, and adolescents pursuant to the requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.

TALBERT HOUSE

Of the foregoing appropriation item 038-401, Treatment Services, \$200,000 in each fiscal year shall be allocated to establish a Talbert House Facility in Butler County. These funds are in addition to any other funds for which the Talbert House facility and Butler County are eligible to receive from the Department of Alcohol and Drug Addiction Services.

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS

Of the foregoing appropriation item 038-401, Treatment Services, \$5 million each year shall be used to fund TANF-eligible expenditures for substance abuse prevention and treatment services to children, or their families, whose income is at or below 200 per cent of the official income poverty guideline. The Director of Alcohol and Drug Addiction Services and the Director of Job and Family Services shall develop operating and reporting guidelines for these programs.

THERAPEUTIC COMMUNITIES

Of the foregoing appropriation item 038-401, Treatment Services, \$750,000 shall be used in each fiscal year for expansion of the Therapeutic Communities Program in the Department of Rehabilitation and Correction.

PARENT AWARENESS TASK FORCE

The Parent Awareness Task Force shall study ways to engage more parents in activities, coalitions, and educational programs in Ohio relating to alcohol and other drug abuse prevention. Of the foregoing appropriation item 038-404, Prevention Services, \$30,000 in each fiscal year may be used to support the functions of the Parent Awareness Task Force.

COMMUNITY CAPITAL ASSISTANCE FUNDS

Any proceeds from the repayment of ODADAS community capital assistance funds from St. Anthony's Villa shall be deposited into Fund 475, appropriation item 038-621, Statewide Treatment and Prevention, and such amounts are hereby appropriated for distribution to other community capital assistance projects in Lucas County.

SECTION 15. AMB AMBULANCE LICENSING BOARD

General Services Fund Group

4N1 915-601 Operating Expenses	\$	272,340	\$	284,054
TOTAL GSF General Services Fund Group	\$	272,340	\$	284,054
TOTAL ALL BUDGET FUND GROUPS	\$	272,340	\$	284,054

SECTION 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS**General Services Fund Group**

4K9 891-609 Operating Expenses	\$	480,574	\$	479,574
TOTAL GSF General Services Fund Group	\$	480,574	\$	479,574
TOTAL ALL BUDGET FUND GROUPS	\$	480,574	\$	479,574

SECTION 17. ART OHIO ARTS COUNCIL**General Revenue Fund**

GRF 370-100 Personal Services	\$	1,896,848	\$	1,892,879
GRF 370-200 Maintenance	\$	547,404	\$	532,998
GRF 370-300 Equipment	\$	227,788	\$	27,056
GRF 370-502 Program Subsidies	\$	9,896,320	\$	9,648,912
TOTAL GRF General Revenue Fund	\$	12,568,360	\$	12,101,845

General Services Fund Group

4B7 370-603 Per Cent for Art Acquisitions	\$	86,366	\$	86,366
460 370-602 Operations	\$	429,325	\$	429,325
TOTAL GSF General Services Fund Group	\$	515,691	\$	515,691

Federal Special Revenue Fund Group

314 370-601 Federal Programs	\$	1,657,300	\$	1,657,300
TOTAL FED Federal Special Revenue Fund Group	\$	1,657,300	\$	1,657,300
TOTAL ALL BUDGET FUND GROUPS	\$	14,741,351	\$	14,274,836

EQUIPMENT

Of the foregoing appropriation item 370-300, Equipment, \$200,000 in fiscal year 2004 shall be used for computer upgrades.

PROGRAM SUBSIDIES

A museum is not eligible to receive funds from appropriation item 370-502, Program Subsidies, if \$8,000,000 or more in capital appropriations were appropriated by the state for the museum between January 1, 1986, and December 31, 2002.

PER CENT FOR ART ACQUISITIONS

The unencumbered balance remaining from prior projects of appropriation item 370-603, Per Cent for Art Acquisitions, shall be used by the Ohio Arts Council to pay for start-up costs in connection with the selection of artists of new Per Cent for Art projects.

SECTION 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION

General Revenue Fund

GRF 371-321	Operating Expenses	\$	317,451	\$	317,451
GRF 371-401	Lease Rental Payments	\$	36,283,800	\$	37,617,700
TOTAL GRF General Revenue Fund		\$	36,601,251	\$	37,935,151

State Special Revenue Fund Group

4T8 371-601	Riffe Theatre Equipment Maintenance	\$	23,194	\$	23,194
4T8 371-603	Project Administration	\$	1,035,377	\$	1,074,339
TOTAL SSR State Special Revenue Group		\$	1,058,571	\$	1,097,533
TOTAL ALL BUDGET FUND GROUPS		\$	37,659,822	\$	39,032,684

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 371-401, Lease Rental Payments, shall be used by the Arts and Sports Facilities Commission for payments to the Ohio Building Authority for the period from July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$73,901,500. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 371-603, Project Administration, shall be used by the Ohio Arts and Sports Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3383. of the Revised Code.

Within ten days after the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Arts Facilities Building Fund (Fund 030) and the Sports Facilities Building Fund (Fund 024) to the Arts and Sports Facilities Commission Administration Fund (Fund 4T8). The total amount transferred in fiscal year 2004 and fiscal year 2005 may not exceed the total biennial appropriation of \$2,109,716 in appropriation item 371-603, Project Administration.

By July 10, 2004, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Arts Facilities Building Fund (Fund 030) and the Sports Facilities Building Fund (Fund 024) to the Arts and Sports Commission Administration Fund (Fund 4T8). The total amount transferred in fiscal year 2004 and in fiscal year 2005 may not exceed the total biennial appropriation of \$2,109,716 in appropriation item 371-603, Project

Administration.

SECTION 19. ATH ATHLETIC COMMISSION

General Services Fund Group

4K9 175-609	Athletic Commission - Operating	\$	188,250	\$	200,205

TOTAL GSF General Services Fund Group	\$	188,250	\$	200,205

TOTAL ALL BUDGET FUND GROUPS	\$	188,250	\$	200,205

TRANSFER OF CASH BALANCE FROM FUND 5R1

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Athlete Agents Registration Fund (Fund 5R1) that was created in former section 4771.22 of the Revised Code to the Occupational Licensing and Regulatory Fund (Fund 4K9). The director shall cancel any existing encumbrances against appropriation item 175-602, Athlete Agents Registration (Fund 5R1), and reestablish them against appropriation item 175-609, Athletic Commission - Operating (Fund 4K9). The amounts of the reestablished encumbrances are hereby appropriated.

SECTION 20. AGO ATTORNEY GENERAL

General Revenue Fund

GRF 055-321	Operating Expenses	\$	53,885,937	\$	53,885,937

GRF 055-406	Community Police Match and Law Enforcement Assistance	\$	2,258,843	\$	2,258,843

GRF 055-411	County Sheriffs	\$	731,879	\$	736,929

GRF 055-415	County Prosecutors	\$	717,182	\$	723,490

TOTAL GRF General Revenue Fund	\$	57,593,841	\$	57,605,199

General Services Fund Group

106 055-612	General Reimbursement	\$	18,870,196	\$	18,870,196

107 055-624	Employment Services	\$	984,396	\$	984,396

195 055-660	Workers' Compensation Section	\$	7,769,628	\$	7,769,628

4Y7 055-608	Title Defect Rescission	\$	570,623	\$	570,623

4Z2 055-609	BCI Asset Forfeiture and Cost Reimbursement	\$	332,109	\$	332,109

418 055-615	Charitable Foundations	\$	1,899,066	\$	1,899,066

420 055-603	Attorney General Antitrust	\$	446,449	\$	446,449

421 055-617	Police Officers' Training Academy Fee	\$	1,193,213	\$	1,193,213

5A9 055-618	Telemarketing Fraud Enforcement	\$	52,378	\$	52,378

590 055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370

629 055-636	Corrupt Activity Investigation and Prosecution	\$	108,230	\$	108,230

631 055-637	Consumer Protection	\$	1,373,832	\$	1,373,832

Enforcement			
TOTAL GSF General Services Fund			
Group	\$	33,698,490	\$ 33,698,490
Federal Special Revenue Fund Group			
3E5 055-638 Anti-Drug Abuse	\$	1,923,400	\$ 1,981,102
3R6 055-613 Attorney General Federal Funds	\$	3,730,191	\$ 3,842,097
306 055-620 Medicaid Fraud Control	\$	2,882,970	\$ 2,969,459
381 055-611 Civil Rights Legal Service	\$	390,815	\$ 390,815
383 055-634 Crime Victims Assistance	\$	17,561,250	\$ 18,439,313
TOTAL FED Federal Special Revenue Fund Group	\$	26,488,626	\$ 27,622,786
State Special Revenue Fund Group			
4L6 055-606 DARE	\$	3,927,962	\$ 3,927,962
402 055-616 Victims of Crime	\$	27,933,893	\$ 27,933,893
417 055-621 Domestic Violence Shelter	\$	14,492	\$ 14,492
419 055-623 Claims Section	\$	13,649,954	\$ 13,649,954
659 055-641 Solid and Hazardous Waste Background Investigations	\$	621,159	\$ 621,159
TOTAL SSR State Special Revenue Fund Group	\$	46,147,460	\$ 46,147,460
Holding Account Redistribution Fund Group			
R03 055-629 Bingo License Refunds	\$	5,200	\$ 5,200
R04 055-631 General Holding Account	\$	275,000	\$ 275,000
R05 055-632 Antitrust Settlements	\$	10,400	\$ 10,400
R18 055-630 Consumer Frauds	\$	750,000	\$ 750,000
R42 055-601 Organized Crime Commission Account	\$	200,000	\$ 200,000
TOTAL 090 Holding Account Redistribution Fund Group	\$	1,240,600	\$ 1,240,600
TOTAL ALL BUDGET FUND GROUPS	\$	165,169,017	\$ 166,314,535

WORKERS' COMPENSATION SECTION

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. Such advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION

The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines,

and penalties credited to the Corrupt Activity Investigation and Prosecution Fund, which is created in division (D)(1)(b) of section 2923.35 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE

In fiscal years 2004 and 2005, the Attorney General's Office may request the Director of Budget and Management to transfer appropriation authority from appropriation item 055-321, Operating Expenses, to appropriation item 055-406, Community Police Match and Law Enforcement Assistance. The Director of Budget and Management shall then transfer appropriation authority from appropriation item 055-321, Operating Expenses, to appropriation item 055-406, Community Police Match and Law Enforcement Assistance. Moneys transferred to appropriation item 055-406, Community Police Match and Law Enforcement Assistance, shall be used to pay operating expenses and to provide grants to local law enforcement agencies and communities for the purpose of supporting law enforcement-related activities.

SECTION 21. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070-321	Operating Expenses	\$	30,813,217	\$	30,813,217
GRF 070-403	Fiscal Watch/Emergency Technical Assistance	\$	400,000	\$	500,000
GRF 070-405	Electronic Data Processing - Auditing and Administration	\$	823,193	\$	823,193
GRF 070-406	Uniform Accounting Network/Technology Improvements Fund	\$	1,774,394	\$	1,774,394
TOTAL GRF General Revenue Fund		\$	33,810,804	\$	33,910,804

General Services Fund Group

109 070-601	Public Audit Expense - Intra-State	\$	10,592,547	\$	11,651,800
422 070-601	Public Audit Expense - Local Government	\$	37,617,072	\$	39,497,925
584 070-603	Training Program	\$	124,999	\$	131,250
675 070-605	Uniform Accounting Network	\$	3,015,760	\$	3,317,336
TOTAL GSF General Services Fund Group		\$	51,350,378	\$	54,598,311

Holding Account Redistribution Fund Group

R06 070-604	Continuous Receipts	\$	50,000	\$	60,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	50,000	\$	60,000
TOTAL ALL BUDGET FUND GROUPS		\$	85,211,182	\$	88,569,115

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, shall be used for all expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, or townships as outlined in Chapter 118. of the Revised Code and of school districts as outlined in Chapter 3316. of the Revised Code; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the mentioned public entities and school districts. The unencumbered balance of appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

ELECTRONIC DATA PROCESSING

The unencumbered balance of appropriation item 070-405, Electronic Data Processing - Auditing and Administration, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND

The foregoing appropriation item 070-406, Uniform Accounting Network/Technology Improvements Fund, shall be used to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State. The unencumbered balance of the appropriation at the end of fiscal year 2004 is transferred to fiscal year 2005 to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State.

SECTION 22. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group

4K9 877-609 Operating Expenses	\$	535,853	\$	555,037
TOTAL GSF General Services Fund				
Group	\$	535,853	\$	555,037
TOTAL ALL BUDGET FUND GROUPS	\$	535,853	\$	555,037

SECTION 23. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund

Am. Sub. H. B. No. 95

1875

GRF 042-321	Budget Development and Implementation	\$	3,092,469	\$	2,405,243
GRF 042-401	Office of Quality Services	\$	30,000	\$	0
GRF 042-409	Commission Closures	\$	65,000	\$	0
GRF 042-410	National Association Dues	\$	27,089	\$	27,902
GRF 042-412	Audit of Auditor of State	\$	62,110	\$	55,760
TOTAL GRF General Revenue Fund		\$	3,276,668	\$	2,488,905
General Services Fund Group					
105 042-603	State Accounting	\$	9,131,651	\$	9,375,862
TOTAL GSF General Services Fund Group		\$	9,131,651	\$	9,375,862
State Special Revenue Fund Group					
5N4 042-602	OAKS Project Implementation	\$	2,062,875	\$	2,069,125
TOTAL SSR State Special Revenue Fund Group		\$	2,062,875	\$	2,069,125
TOTAL ALL BUDGET FUND GROUPS		\$	14,471,194	\$	13,933,892

OFFICE OF QUALITY SERVICES

On the effective date of this section, the Office of Quality Services is abolished and its operations shall be wound up and discontinued. The foregoing appropriation item 042-401, Office of Quality Services, shall be used to pay final payroll costs for staff assigned to the Office of Quality Services.

COMMISSION CLOSURES

The foregoing appropriation item 042-409, Commission Closures shall be used to pay for unemployment compensation costs and miscellaneous expenses related to and following the closures of the Office of Quality Services and any other state agency as defined in section 1.60 of the Revised Code.

AUDIT COSTS

Of the foregoing appropriation item 042-603, State Accounting, not more than \$400,000 in fiscal year 2004 and \$415,000 in fiscal year 2005 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.

SECTION 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

General Revenue Fund

GRF 874-100	Personal Services	\$	2,031,400	\$	2,051,400
GRF 874-320	Maintenance and Equipment	\$	1,022,262	\$	982,929
TOTAL GRF General Revenue Fund		\$	3,053,662	\$	3,034,329

General Services Fund Group

4G5 874-603	Capitol Square Maintenance Expenses	\$	15,000	\$	15,000
4S7 874-602	Statehouse Gift Shop/Events	\$	770,484	\$	770,484

TOTAL GSF General Services				
Fund Group	\$	785,484	\$	785,484
Underground Parking Garage				
208 874-601 Underground Parking Garage	\$	2,996,801	\$	2,959,721
Operating				
TOTAL UPG Underground Parking				
Garage	\$	2,996,801	\$	2,959,721
TOTAL ALL BUDGET FUND GROUPS	\$	6,835,947	\$	6,779,534

SECTION 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS

General Services Fund Group

4K9 233-601 Operating Expenses	\$	404,025	\$	431,525
TOTAL GSF General Services Fund Group	\$	404,025	\$	431,525
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$	431,525

SECTION 26. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD

General Services Fund Group

4K9 930-609 Operating Expenses	\$	225,000	\$	450,000
TOTAL GSF General Services Fund Group	\$	225,000	\$	450,000
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$	450,000

Notwithstanding any other law to the contrary, upon certification by the Director of Administrative Services, the Director of Budget and Management may transfer cash in an amount not to exceed the fiscal year 2004 appropriation from Fund 5P1 (Credentialing Fund) to Fund 4K9 (Occupational Licensing). The amount transferred is hereby appropriated. The cash shall be used to pay expenses related to establishing the Chemical Dependency Professionals Board, including, but not limited to, travel reimbursement of board members.

Upon completion of the transition of the Department of Alcohol and Drug Addiction's certificates and credentials issuance program to the Chemical Dependency Professionals Board, the Director of Alcohol and Drug Addiction Services shall certify to the Director of Budget and Management the remaining cash in Fund 5P1 (Credentialing Fund). The Director of Budget and Management shall transfer the certified balance from Fund 5P1 to Fund 4K9 (Occupational Licensing). This transition shall be completed in accordance with Section 5 of Am. Sub. H.B. 496 of the 124th General Assembly.

SECTION 27. CHR STATE CHIROPRACTIC BOARD

General Services Fund Group

Am. Sub. H. B. No. 95

1877

4K9 878-609	Operating Expenses	\$	591,724	\$	591,724
TOTAL GSF General Services Fund					
Group		\$	591,724	\$	591,724
TOTAL ALL BUDGET FUND GROUPS					
		\$	591,724	\$	591,724

SECTION 28. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund

GRF 876-100	Personal Services	\$	7,000,000	\$	7,000,000
GRF 876-200	Maintenance	\$	400,000	\$	400,000
GRF 876-300	Equipment	\$	91,298	\$	91,298
TOTAL GRF General Revenue Fund					
		\$	7,491,298	\$	7,491,298

Federal Special Revenue Fund Group

334 876-601	Federal Programs	\$	3,965,000	\$	3,790,000
TOTAL FED Federal Special Revenue					
Fund Group		\$	3,965,000	\$	3,790,000

State Special Revenue Fund Group

217 876-604	General Reimbursement	\$	20,951	\$	20,951
TOTAL SSR State Special					
Revenue Fund Group		\$	20,951	\$	20,951
TOTAL ALL BUDGET FUND GROUPS					
		\$	11,477,249	\$	11,302,249

SECTION 29. COM DEPARTMENT OF COMMERCE

General Revenue Fund

GRF 800-402	Grants-Volunteer Fire Departments	\$	647,953	\$	647,953
GRF 800-410	Labor and Worker Safety	\$	3,700,040	\$	3,725,040
Total GRF General Revenue Fund					
		\$	4,347,993	\$	4,372,993

General Services Fund Group

163 800-620	Division of Administration	\$	3,385,803	\$	3,490,056
163 800-637	Information Technology	\$	2,753,299	\$	2,772,924
5F1 800-635	Small Government Fire Departments	\$	250,000	\$	250,000
TOTAL GSF General Services Fund					
Group		\$	6,389,102	\$	6,512,980

Federal Special Revenue Fund Group

348 800-622	Underground Storage Tanks	\$	195,008	\$	195,008
348 800-624	Leaking Underground Storage Tanks	\$	1,850,000	\$	1,850,000
349 800-626	OSHA Enforcement	\$	1,527,750	\$	1,604,140
TOTAL FED Federal Special Revenue					
Fund Group		\$	3,572,758	\$	3,649,148

State Special Revenue Fund Group

4B2 800-631	Real Estate Appraisal Recovery	\$	60,000	\$	60,000
4H9 800-608	Cemeteries	\$	273,465	\$	273,465
4L5 800-609	Fireworks Training and Education	\$	10,976	\$	10,976
4X2 800-619	Financial Institutions	\$	2,020,798	\$	2,200,843
5B9 800-632	PI & Security Guard Provider	\$	1,188,716	\$	1,188,716

5K7	800-621	Penalty Enforcement	\$	50,000	\$	50,000
543	800-602	Unclaimed Funds-Operating	\$	7,051,051	\$	7,051,051
543	800-625	Unclaimed Funds-Claims	\$	25,512,867	\$	25,512,867
544	800-612	Banks	\$	6,657,997	\$	6,657,997
545	800-613	Savings Institutions	\$	2,765,618	\$	2,894,330
546	800-610	Fire Marshal	\$	7,855,076	\$	11,787,994
547	800-603	Real Estate	\$	250,000	\$	250,000
		Education/Research				
548	800-611	Real Estate Recovery	\$	100,000	\$	100,000
549	800-614	Real Estate	\$	3,586,754	\$	3,705,892
550	800-617	Securities	\$	4,600,000	\$	4,800,000
552	800-604	Credit Union	\$	2,613,356	\$	2,751,852
553	800-607	Consumer Finance	\$	3,764,279	\$	3,735,445
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257
6A4	800-630	Real Estate	\$	658,506	\$	664,006
		Appraiser-Operating				
653	800-629	UST Registration/Permit Fee	\$	1,353,632	\$	1,249,632
TOTAL SSR State Special Revenue						
Fund Group			\$	95,000,778	\$	99,982,323
Liquor Control Fund Group						
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432
043	800-627	Liquor Control Operating	\$	17,248,488	\$	15,981,346
043	800-633	Economic Development Debt	\$	23,277,500	\$	29,029,500
		Service				
043	800-636	Revitalization Debt Service	\$	4,747,800	\$	9,736,300
TOTAL LCF Liquor Control						
Fund Group			\$	386,353,342	\$	408,639,578
TOTAL ALL BUDGET FUND GROUPS			\$	495,663,973	\$	523,157,022

GRANTS-VOLUNTEER FIRE DEPARTMENTS

The foregoing appropriation item 800-402, Grants-Volunteer Fire Departments, shall be used to make annual grants to volunteer fire departments of up to \$10,000, or up to \$25,000 if the volunteer fire department provides service for an area affected by a natural disaster. The grant program shall be administered by the Fire Marshal under the Department of Commerce. The Fire Marshal shall adopt rules necessary for the administration and operation of the grant program.

SMALL GOVERNMENT FIRE DEPARTMENTS

Upon the request of the Director of Commerce, the Director of Budget and Management shall transfer \$250,000 cash in each fiscal year from the State Fire Marshal Fund (Fund 546) within the State Special Revenue Fund Group to the Small Government Fire Departments Fund (Fund 5F1) within the General Services Fund Group.

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800-635, Small Government Fire Departments, may be used to provide loans to private fire departments.

LABOR AND WORKER SAFETY

The Department of Commerce may designate a portion of appropriation

item 800-410, Labor and Worker Safety, to be used to match federal funding for the OSHA on-site consultation program.

PENALTY ENFORCEMENT

The foregoing appropriation item 800-621, Penalty Enforcement, shall be used to enforce sections 4115.03 to 4115.16 of the Revised Code.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800-625, Unclaimed Funds-Claims, shall be used to pay claims pursuant to section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

BANKS FUND (FUND 544) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$2,000,000 cash from the Banks Fund (Fund 544) to the General Revenue Fund.

FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$10,000,000 cash from the Fire Marshal Fund (Fund 546) to the General Revenue Fund.

REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Real Estate Fund (Fund 549) to the General Revenue Fund.

INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Industrial Compliance Fund (Fund 556), to the General Revenue Fund.

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING

The foregoing appropriation item 800-601, Merchandising, shall be used pursuant to section 4301.12 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

ECONOMIC DEVELOPMENT DEBT SERVICE

The foregoing appropriation item 800-633, Economic Development Debt Service, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. The General Assembly acknowledges that an appropriation for this purpose is not

required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800-636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2003, to June 30, 2005. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, Fund 163, Division of Administration, shall receive assessments from all operating funds of the department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

SECTION 30. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group

5F5 053-601 Operating Expenses	\$	9,277,519	\$	9,277,519
TOTAL GSF General Services Fund Group	\$	9,277,519	\$	9,277,519
TOTAL ALL BUDGET FUND GROUPS	\$	9,277,519	\$	9,277,519

SECTION 31. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911-401 Emergency	\$	5,000,000	\$	5,000,000
Purposes/Contingencies				
GRF 911-404 Mandate Assistance	\$	1,462,500	\$	1,462,500
GRF 911-441 Ballot Advertising Costs	\$	887,500	\$	487,500
TOTAL GRF General Revenue Fund	\$	7,350,000	\$	6,950,000

State Special Revenue Fund Group

5E2 911-601 Disaster Services	\$	4,000,000	\$	0
TOTAL SSR State Special Revenue Fund Group	\$	4,000,000	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	11,350,000	\$	6,950,000

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER ASSISTANCE

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Emergency Purposes Fund to a Department of Public Safety General Revenue Fund appropriation item to provide funding for assistance to political subdivisions made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

SOUTHERN OHIO CORRECTIONAL FACILITY COST

The Office of Criminal Justice Services and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from the Emergency Purposes Fund for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the foregoing appropriation item 911-601, Disaster Services, to a Department of Public Safety General Revenue Fund appropriation item to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding for disaster aid requests that meet the Emergency Management Agency's criteria for assistance.

The foregoing appropriation item 911-601, Disaster Services, shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund and appropriation item for the payment of state agency program expenses as follows:

- (A) The southern Ohio flooding, referred to as FEMA-DR-1164-OH;
- (B) The flood/storm disaster referred to as FEMA-DR-1227-OH;
- (C) The Southern Ohio flooding, referred to as FEMA-DR-1321-OH;
- (D) The flooding referred to as FEMA-DR-1339-OH;
- (E) The tornado/storms referred to as FEMA-DR-1343-OH;
- (F) Other disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist beyond the expected program costs of these disasters.

The unencumbered balance of appropriation item 911-601, Disaster Services, at the end of fiscal year 2004 is transferred to fiscal year 2005 for

use under the same appropriation item.

MANDATE ASSISTANCE

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government, school districts, and fire departments for the cost of the following three unfunded state mandates:

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;

(2) The cost, primarily to small villages and townships, of providing firefighter training and equipment or gear;

(3) The cost to school districts of in-service training for child abuse detection.

(B) The Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT
Prosecution Costs	Office of Criminal Justice Services	\$146,500
Firefighter Training Costs	Department of Commerce	\$731,000
Child Abuse Detection Training Costs	Department of Education	\$585,000

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to one or more of the other programs of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government, school districts, and fire departments under each of the three programs of state financial assistance identified under this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the administering state agency; and the actual costs incurred by local units of government, school districts, and fire departments.

(F) Each of these programs of state financial assistance shall be carried out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Office of Criminal Justice Services to cover local prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Office of Criminal Justice Services shall adopt, apply to the Office of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Office of Criminal Justice Services shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules that have been adopted by the Office of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been made, up to a total of \$100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder; second priority shall be given to cases involving a felony of the first degree; and third priority shall be given to cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order

in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

(2) FIREFIGHTER TRAINING COSTS

Appropriations may be transferred to the Department of Commerce for use as full or partial reimbursement to local units of government and fire departments for the cost of firefighter training and equipment or gear. In accordance with rules that the department shall adopt, a local unit of government or fire department may apply to the department for a grant to cover all documented costs that are incurred to provide firefighter training and equipment or gear. The department shall make grants within the limits of the funding provided, with priority given to fire departments that serve small villages and townships.

(3) CHILD ABUSE DETECTION TRAINING COSTS

Appropriations may be transferred to the Department of Education for disbursement to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the department shall adopt, a local school district may apply to the department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall make grants within the limits of the funding provided.

(G) Any moneys allocated within appropriation item 911-404, Mandate Assistance, not fully utilized may, upon application of the Ohio Public Defender Commission, and with the approval of the Controlling Board, be disbursed to boards of county commissioners to provide additional reimbursement for the costs incurred by counties in providing defense to indigent defendants pursuant to Chapter 120. of the Revised Code.

The amount to be disbursed to each county shall be allocated proportionately on the basis of the total amount of reimbursement paid to each county as a percentage of the amount of reimbursement paid to all of the counties during the most recent state fiscal year for which data is available and as calculated by the Ohio Public Defender Commission.

BALLOT ADVERTISING COSTS

Pursuant to requests submitted by the Ohio Ballot Board, the Controlling Board shall approve transfers from the foregoing appropriation item 911-441, Ballot Advertising Costs, to an Ohio Ballot Board appropriation item in order to reimburse county boards of elections for the cost of public notices associated with statewide ballot initiatives.

Of the foregoing appropriation item 911-441, Ballot Advertising Costs, the Director of Budget and Management shall transfer any amounts that are

not needed for the purpose of reimbursing county boards of elections for the cost of public notices associated with statewide ballot initiatives to appropriation item 911-404, Mandate Assistance.

SECTION 32. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group

4K9 879-609 Operating Expenses	\$	2,681,359	\$	2,822,359
TOTAL GSF General Services Fund Group	\$	2,681,359	\$	2,822,359
TOTAL ALL BUDGET FUND GROUPS	\$	2,681,359	\$	2,822,359

SECTION 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group

4K9 899-609 Operating Expenses	\$	1,021,524	\$	1,044,812
TOTAL GSF General Services Fund Group	\$	1,021,524	\$	1,044,812
TOTAL ALL BUDGET FUND GROUPS	\$	1,021,524	\$	1,044,812

SECTION 34. CLA COURT OF CLAIMS

General Revenue Fund

GRF 015-321 Operating Expenses	\$	2,452,000	\$	2,477,000
TOTAL GRF General Revenue Fund	\$	2,452,000	\$	2,477,000

State Special Revenue Fund Group

5K2 015-603 CLA Victims of Crime	\$	1,532,043	\$	1,582,684
TOTAL SSR State Special Revenue Fund Group	\$	1,532,043	\$	1,582,684
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$	4,059,684

OFFICE SPACE RENTAL EXPENSES

Of the foregoing appropriation item 015-321, Operating Expenses, in fiscal year 2005, \$302,000 shall be for the purpose of paying fiscal year 2005 office space rental expenses. Upon approval of the Controlling Board, the Court of Claims may expend up to \$302,000 for the purpose of paying fiscal year 2005 office space rental expenses.

SECTION 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES

General Revenue Fund

GRF 196-401 Criminal Justice Information System	\$	534,570	\$	520,503
GRF 196-403 Center for Violence Prevention	\$	20,000	\$	20,000
GRF 196-405 Violence Prevention Subsidy	\$	707,076	\$	688,469
GRF 196-424 Operating Expenses	\$	1,431,371	\$	1,427,971

Am. Sub. H. B. No. 95

1886

TOTAL GRF General Revenue Fund	\$	2,693,017	\$	2,656,943
General Services Fund Group				
4P6 196-601 General Services	\$	135,450	\$	86,500
TOTAL GSF Services Fund Group	\$	135,450	\$	86,500
Federal Special Revenue Fund Group				
3L5 196-604 Justice Program	\$	30,334,908	\$	30,311,870
3U1 196-602 Criminal Justice Federal Programs	\$	1,000,000	\$	0
3V8 196-605 Federal Program Purposes FFY 01	\$	250,000	\$	0
TOTAL FED Federal Special Revenue Fund Group	\$	31,584,908	\$	30,311,870
TOTAL ALL BUDGET FUND GROUPS	\$	34,413,375	\$	33,055,313

INDIGENT DEFENSE

The Office of Criminal Justice Services shall make all efforts to maximize the amount of funding available for the defense of indigent persons.

CRIMINAL JUSTICE INFORMATION SYSTEM

The foregoing appropriation item 196-401, Criminal Justice Information System, shall be used by the Office of Criminal Justice Services to work on a plan to improve Ohio's criminal justice information systems. The Director of Criminal Justice Services shall evaluate the progress of this plan and issue a report to the Governor, the Speaker and the Minority Leader of the House of Representatives, the President and the Minority Leader of the Senate, the Criminal Justice Policy Board, and the Legislative Service Commission by the first day of January of each year of the two-year biennium beginning July 1, 2003, and ending June 30, 2005.

VIOLENCE PREVENTION SUBSIDY

Of the foregoing appropriation item 196-405, Violence Prevention Subsidy, \$60,000 in fiscal year 2004 shall be used for Montgomery County's STVM Safe House Domestic Transitional Housing.

OPERATING EXPENSES

Of the foregoing appropriation item 196-424, Operating Expenses, up to \$650,000 in each fiscal year shall be used for the purpose of matching federal funds.

JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT

The foregoing appropriation item 196-602, Criminal Justice Federal Programs, shall be used to fund and close out the Juvenile Accountability Incentive Block Grant Program for federal fiscal year 1999.

SECTION 36. DEN STATE DENTAL BOARD

General Services Fund Group

Am. Sub. H. B. No. 95

1887

4K9 880-609	Operating Expenses	\$	1,324,456	\$	1,346,656
TOTAL GSF General Services Fund					
Group		\$	1,324,456	\$	1,346,656
TOTAL ALL BUDGET FUND GROUPS		\$	1,324,456	\$	1,346,656

SECTION 37. BDP BOARD OF DEPOSIT

General Services Fund Group

4M2 974-601	Board of Deposit	\$	1,676,000	\$	1,676,000
TOTAL GSF General Services Fund					
Group		\$	1,676,000	\$	1,676,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,676,000	\$	1,676,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 608) to the Board of Deposit Expense Fund (Fund 4M2). The latter fund shall be used to pay for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 38. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF 195-321	Operating Expenses	\$	2,695,236	\$	3,020,115
GRF 195-401	Thomas Edison Program	\$	16,634,934	\$	16,334,934
GRF 195-404	Small Business Development	\$	1,740,722	\$	1,740,722
GRF 195-405	Minority Business	\$	1,620,755	\$	1,669,378
Development Division					
GRF 195-407	Travel and Tourism	\$	6,049,345	\$	7,049,345
GRF 195-410	Defense Conversion	\$	1,500,000	\$	0
Assistance					
GRF 195-412	Business Development Grants	\$	8,905,530	\$	8,905,530
GRF 195-414	First Frontier Match	\$	389,987	\$	389,987
GRF 195-415	Economic Development	\$	5,594,975	\$	5,594,975
Division and Regional Offices					
GRF 195-416	Governor's Office of	\$	4,372,324	\$	4,372,324
Appalachia					
GRF 195-417	Urban/Rural Initiative	\$	589,390	\$	589,390
GRF 195-422	Third Frontier Action Fund	\$	16,790,000	\$	16,790,000
GRF 195-426	Clean Ohio Administration	\$	518,730	\$	518,730
GRF 195-432	International Trade	\$	4,492,713	\$	4,492,713
GRF 195-434	Investment in Training Grants	\$	12,227,500	\$	12,227,500
GRF 195-436	Labor/Management	\$	811,869	\$	811,869
Cooperation					
GRF 195-497	CDBG Operating Match	\$	1,107,400	\$	1,107,400
GRF 195-498	State Energy Match	\$	100,000	\$	100,000
GRF 195-501	Appalachian Local	\$	380,080	\$	380,080
Development Districts					
GRF 195-502	Appalachian Regional	\$	238,274	\$	246,803
Commission Dues					
GRF 195-507	Travel and Tourism Grants	\$	1,025,000	\$	1,025,000

Am. Sub. H. B. No. 95

1888

GRF 195-515	Economic Development	\$	10,000,000	\$	10,000,000
	Contingency				
GRF 195-516	Shovel Ready Sites	\$	2,500,000	\$	2,500,000
GRF 195-905	Third Frontier Research & Commercialization General Obligation Debt Service	\$	0	\$	7,360,000
TOTAL GRF General Revenue Fund		\$	100,284,764	\$	107,226,795
General Services Fund Group					
135 195-605	Supportive Services	\$	7,417,068	\$	7,539,686
136 195-621	International Trade	\$	24,915	\$	24,915
685 195-636	General Reimbursements	\$	1,316,012	\$	1,232,530
TOTAL GSF General Services Fund Group		\$	8,757,995	\$	8,797,131
Federal Special Revenue Fund Group					
3K8 195-613	Community Development Block Grant	\$	65,000,000	\$	65,000,000
3K9 195-611	Home Energy Assistance Block Grant	\$	85,036,000	\$	85,036,000
3K9 195-614	HEAP Weatherization	\$	16,219,479	\$	16,219,479
3L0 195-612	Community Services Block Grant	\$	25,235,000	\$	25,235,000
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000
308 195-602	Appalachian Regional Commission	\$	350,200	\$	350,200
308 195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000
308 195-605	Federal Projects	\$	15,300,248	\$	15,300,248
308 195-609	Small Business Administration	\$	4,196,381	\$	4,296,381
308 195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659
335 195-610	Oil Overcharge	\$	8,500,000	\$	8,500,000
380 195-622	Housing Development Operating	\$	5,606,080	\$	5,667,627
TOTAL FED Federal Special Revenue Fund Group		\$	273,841,047	\$	274,002,594
State Special Revenue Fund Group					
4F2 195-639	State Special Projects	\$	540,183	\$	290,183
4H4 195-641	First Frontier	\$	500,000	\$	500,000
4S0 195-630	Enterprise Zone Operating	\$	211,900	\$	211,900
4S1 195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800
4W1 195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597
444 195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775
445 195-617	Housing Finance Operating	\$	5,040,843	\$	4,983,738
450 195-624	Minority Business Bonding Program Administration	\$	13,563	\$	13,563
451 195-625	Economic Development Financing Operating	\$	2,358,310	\$	2,358,310
5M4 195-659	Universal Service	\$	170,000,000	\$	170,000,000
5M5 195-660	Energy Efficiency Revolving Loan	\$	12,000,000	\$	12,000,000

Am. Sub. H. B. No. 95

1889

611	195-631	Water and Sewer Administration	\$	15,713	\$	15,713
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000
646	195-638	Low and Moderate Income Housing Trust Fund	\$	40,000,000	\$	40,000,000
TOTAL SSR State Special Revenue Fund Group			\$	234,360,684	\$	234,053,579
Facilities Establishment Fund Group						
009	195-664	Innovation Ohio	\$	50,000,000	\$	55,000,000
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149
4Z6	195-647	Rural Industrial Park Loan	\$	5,000,000	\$	5,000,000
5D2	195-650	Urban Redevelopment Loans	\$	10,475,000	\$	10,475,000
5H1	195-652	Family Farm Loan Guarantee	\$	1,500,000	\$	1,500,000
5S8	195-627	Rural Development Initiative	\$	5,000,000	\$	5,000,000
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000
TOTAL 037 Facilities Establishment Fund Group			\$	138,906,149	\$	143,906,149
Clean Ohio Revitalization Fund						
003	195-663	Clean Ohio Operating	\$	150,000	\$	150,000
TOTAL 003 Clean Ohio Revitalization Fund			\$	150,000	\$	150,000
TOTAL ALL BUDGET FUND GROUPS			\$	756,300,639	\$	768,136,248

SECTION 38.01. THOMAS EDISON PROGRAM

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of this program by the Technology Division.

Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2004 and \$2,300,000 in fiscal year 2005 shall be used for operating expenditures in administering the programs of the Technology Division.

SECTION 38.02. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed.

The foregoing appropriation item 195-404, Small Business Development, may be used to provide grants to local organizations to support the operation of Small Business Development Centers and other local economic development activity promoting small business, and for the cost of administering the small business development center program. The

centers shall provide technical, financial, and management consultation for small business and shall facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 (1980) as amended by Public Law No. 98-395 (1984), and regulations and policy guidelines for the programs under this law.

In addition, the Office of Small Business may operate the 1st-Stop Business Connection and implement and coordinate the duties imposed on the Department of Development by Am. Sub. S.B. 239 of the 115th General Assembly.

MINORITY BUSINESS DEVELOPMENT DIVISION

Of the foregoing appropriation item 195-405, Minority Business Development Division, up to \$1,060,000 but not less than \$954,000 in each fiscal year shall be used to fund minority contractors and business assistance organizations. The Minority Business Development Division shall determine which cities need minority contractors and business assistance organizations by utilizing United States Census Bureau data and zip codes to locate the highest concentrations of minority businesses. The Minority Business Development Division also shall determine the numbers of minority contractors and business assistance organizations necessary and the amount of funding to be provided each. In addition, the Minority Business Development Division shall continue to plan and implement business conferences.

SECTION 38.03. OHIO PREPAREDNESS FOR BRAC-2005

The foregoing appropriation item 195-410, Defense Conversion Assistance, shall be used for grants to local communities to pay for the costs associated with the research and preparation of response plans for military installations in Ohio, including Wright Patterson Air Force Base, Springfield Air National Guard Base, and other Ohio military installations in the state for the U.S. Department of Defense Base Realignment and Closure (BRAC) 2005 Program. The grants shall contain requirements for cost sharing to evidence the commitment of local communities to this process. The Director of Development may reserve up to five per cent of the appropriation for contingency and administration support.

SECTION 38.04. BUSINESS DEVELOPMENT

The foregoing appropriation item 195-412, Business Development

Grants, shall be used as an incentive for attracting and retaining business opportunities for the state. Any such business opportunity, whether new, expanding, or relocating in Ohio, is eligible for funding. The project must create or retain a significant number of jobs for Ohioans. Grant awards may be considered only when (1) the project's viability hinges on an award of funds from appropriation item 195-412, Business Development Grants; (2) all other public or private sources of financing have been considered; or (3) the funds act as a catalyst for the infusion into the project of other financing sources.

The department's primary goal shall be to award funds to political subdivisions of the state for off-site infrastructure improvements. In order to meet the particular needs of economic development in a region, the department may elect to award funds directly to a business for on-site infrastructure improvements. "Infrastructure improvements" mean improvements to water system facilities, sewer and sewage treatment facilities, electric or gas service facilities, fiber optic facilities, rail facilities, site preparation, and parking facilities. The Director of Development may recommend the funds be used in an alternative manner when deemed appropriate to meet an extraordinary economic development opportunity or need.

The foregoing appropriation item 195-412, Business Development Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

The foregoing appropriation item 195-412, Business Development Grants, may be used for, but is not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

SECTION 38.05. FIRST FRONTIER MATCH

The foregoing appropriation item 195-414, First Frontier Match, shall be used as matching funds to targeted counties for the purpose of marketing state, regional, and local characteristics that may attract economic development. "Targeted counties" mean counties that have a population of less than 175,000 residents. The appropriation may be used either for marketing programs by individual targeted counties or for regional marketing campaigns that are marketing programs in which at least one

targeted county is participating with one or more other targeted counties or larger counties.

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195-415, Economic Development Division and Regional Offices, shall be used for the operating expenses of the Economic Development Division and the regional economic development offices and for grants for cooperative economic development ventures.

SECTION 38.06. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia. Funds not expended for planning and liaison activities may be expended for special project grants within the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$4,372,324 in each fiscal year shall be used in conjunction with other federal and state funds to provide financial assistance to projects in Ohio's Appalachian counties in order to further the goals of the Appalachian Regional Commission. Such projects and project sponsors shall meet Appalachian Regional Commission eligibility requirements. Grants shall be administered by the Department of Development.

URBAN/RURAL INITIATIVE

The foregoing appropriation item 195-417, Urban/Rural Initiative, shall be used to make grants in accordance with sections 122.19 to 122.22 of the Ohio Revised Code.

SECTION 38.07. THIRD FRONTIER ACTION FUND

The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants in accordance with sections 184.01 and 184.02 of the Revised Code. Prior to the release of funds from appropriation item 195-422, Third Frontier Action Fund, each grant award shall be recommended for funding by the Third Frontier Commission and obtain approval from the Controlling Board.

Of the foregoing appropriation item 195-422, Third Frontier Action Fund, not more than six per cent in each fiscal year shall be used for operating expenditures in administering the program.

In addition to the six per cent for operating expenditures, an additional administrative amount, not to exceed \$1,500,000 within the biennium, shall be available for proposal evaluation, research and analyses, and marketing efforts deemed necessary to receive and disseminate information about science and technology-related opportunities in the state.

SCIENCE AND TECHNOLOGY COLLABORATION

The Department of Development shall work in close collaboration with the Board of Regents and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, the Board of Regents, and Air Quality Development Authority, as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds.

All programs listed in the preceding paragraph shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting

Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

SECTION 38.08. INTERNATIONAL TRADE

The foregoing appropriation item 195-432, International Trade, shall be used to operate and to maintain Ohio's out-of-state trade offices.

The Director of Development may enter into contracts with foreign nationals to staff foreign offices. Such contracts may be paid in local currency or United States currency and shall be exempt from the provisions of section 127.16 of the Revised Code. The director also may establish foreign currency accounts in accordance with section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of the foreign trade offices.

The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and to assist Ohio manufacturers and agricultural producers in exporting to foreign countries in conjunction with the Department of Agriculture.

Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.

SECTION 38.09. OHIO INVESTMENT IN TRAINING PROGRAM

The foregoing appropriation item 195-434, Investment in Training Grants, shall be used to promote training through grants for the reimbursement of eligible training expenses.

SECTION 38.10. CDBG OPERATING MATCH

The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program.

STATE OPERATING MATCH

The foregoing appropriation item 195-498, State Energy Match, shall be used to provide matching funds as required by the United States Department of Energy to administer the federally funded State Energy Plan.

SECTION 38.11. TRAVEL AND TOURISM GRANTS

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$160,000 in each fiscal year of the biennium may be used to support the outdoor dramas Trumpet in the Land, Blue Jacket, Tecumseh, and the Becky Thatcher Showboat Drama; \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission; \$40,000 in each fiscal year shall be used for the Cleveland Film Commission; \$600,000 in each fiscal year shall be used for grants to the International Center for the Preservation of Wild Animals; \$120,000 in each fiscal year shall be used for the Ottawa County Visitors Bureau, the Sandusky/Erie County Visitors and Convention Bureau, and the Lorain County Visitors Bureau for collaborative efforts to promote tourism; \$25,000 in each fiscal year shall be used for the Ohio River Trails Program; \$40,000 in fiscal year 2004 shall be used for the United States Senior Open in Toledo; \$20,000 in fiscal year 2005 for the Professional Football Hall of Fame; and \$20,000 in fiscal year 2005 for the Cuyahoga Valley Scenic Railroad.

SECTION 38.12. SHOVEL READY SITES

The foregoing appropriation item 195-516, Shovel Ready Sites, shall be used for the Shovel Ready Sites Program.

The Director of Development shall contract for pilot projects with three port authorities, two of which shall be from urban counties with populations of at least 200,000 but not more than 600,000 residents, and one of which shall be from a rural county. The appropriation shall be used to leverage federal funds, local funds, or both, to provide grants for the preparation of sites for immediate construction for infrastructure in the state.

SECTION 38.13. THIRD FRONTIER RESEARCH & COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195-905, Third Frontier Research & Commercialization General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2003, to June 30, 2005, on obligations to be issued for research and development purposes under Section 2p of Article VIII, Ohio Constitution, and implementing legislation. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 38.14. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. Such an assessment shall be based on a plan submitted to and approved by the Office of Budget and Management by the first day of August of each fiscal year, and contain the characteristics of administrative ease and uniform application.

A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher.

GENERAL REIMBURSEMENT

The foregoing appropriation item 195-636, General Reimbursements, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs.

SECTION 38.15. TRAINING SERVICES

Of the foregoing appropriation item 195-605, Federal Projects, \$400,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.

SECTION 38.16. HEAP WEATHERIZATION

Fifteen per cent of the federal funds received by the state for the Home Energy Assistance Block Grant shall be deposited in appropriation item 195-614, HEAP Weatherization (Fund 3K9), and shall be used to provide home weatherization services in the state.

Of the foregoing appropriation item 195-614, HEAP Weatherization, \$200,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.

STATE SPECIAL PROJECTS

The foregoing appropriation item 195-639, State Special Projects, shall be used as a general account for the deposit of private-sector funds from utility companies and other miscellaneous state funds. Private-sector moneys shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) market economic development opportunities in the state, and (3) leverage additional federal funds. State

funds shall be used to match federal housing grants for the homeless.

SECTION 38.17. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board loan program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W1).

All operating costs of administering the Minority Business Enterprise Loan Fund shall be paid from the Minority Business Enterprise Loan Fund (Fund 4W1).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of Am. Sub. H.B. 283 of the 123rd General Assembly, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the 2003-2005 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program pursuant to section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are appropriated.

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION

Investment earnings of the Minority Business Bonding Fund (Fund 449) shall be credited to the Minority Business Bonding Program Administration Fund (Fund 450).

SECTION 38.18. ECONOMIC DEVELOPMENT FINANCING
OPERATING

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter 166. of the Revised Code and under sections 122.43 and 122.45 of the Revised Code.

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195-654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 617) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

UNIVERSAL SERVICE FUND

The foregoing appropriation item 195-659, Universal Service, shall be used to provide payments to regulated electric utility companies for low-income customers enrolled in Percentage of Income Payment Plan (PIPP) electric accounts, to fund targeted energy efficiency and customer education services to PIPP customers, and to cover the department's administrative costs related to the Universal Service Fund Programs.

ENERGY EFFICIENCY REVOLVING LOAN FUND

The foregoing appropriation item 195-660, Energy Efficiency Revolving Loan, shall be used to provide financial assistance to customers for eligible energy efficiency projects for residential, commercial and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in the Revised Code and rules adopted by the Director of Development.

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS

All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators, (henceforth referred to as the "Global Analysts Settlement Agreements") shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y6), which is hereby created in the state treasury. The fund shall be used by the Director of Development to support economic development projects for which appropriations would not otherwise be available, and shall be subject to the submission of a request to the Controlling Board by the Director outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 38.19. FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$1,800,000 in cash per fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval pursuant to division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$20,475,000 in cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Urban Redevelopment Loans Fund (Fund 5D2) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project.

Notwithstanding Chapter 166. of the Revised Code, up to \$5,000,000 per fiscal year in cash may be transferred from the Facilities Establishment Fund (Fund 037) to the Rural Industrial Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to \$1,500,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Guarantee Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Guarantee Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall receive moneys from the Facilities Establishment Fund (Fund 037). The Director of

Development may make grants from the Rural Development Initiative Fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed pursuant to section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian counties designated as distressed by the federal Appalachian Regional Commission. The Rural Development Initiative Fund (Fund 5S8) shall cease to exist after June 30, 2007. All moneys remaining in the Fund after that date shall revert to the Facilities Establishment Fund (Fund 037).

(2) The Director of Development shall make grants from the Rural Development Initiative Fund (Fund 5S8) only to eligible applicants who also qualify for and receive funding under the Rural Industrial Park Loan Program as specified in sections 122.23 to 122.27 of the Revised Code. Eligible applicants shall use the grants for the purposes specified in section 122.24 of the Revised Code. All projects supported by grants from the fund are subject to Chapter 4115. of the Revised Code as specified in division (E) of section 166.02 of the Revised Code. The Director shall develop program guidelines for the transfer and release of funds. The release of grant moneys to an eligible applicant is subject to Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$5,000,000 per fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Rural Development Initiative Fund (Fund 5S8). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195-628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 per fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195-664, Innovation Ohio, shall be

used to provide for innovation Ohio purposes, including loan guarantees and loans pursuant to Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code. Of the foregoing appropriation item 195-664, Innovation Ohio, the unencumbered balance of the appropriation at the end of fiscal year 2004 shall be transferred by the Director of Budget and Management to fiscal year 2005.

SECTION 38.20. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.

SECTION 39. OBD OHIO BOARD OF DIETETICS

General Services Fund Group

4K9 860-609	Operating Expenses	\$	334,917	\$	329,687
TOTAL GSF General Services Fund Group		\$	334,917	\$	329,687
TOTAL ALL BUDGET FUND GROUPS		\$	334,917	\$	329,687

SECTION 40. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

General Revenue Fund

GRF 145-401	Commission on Dispute Resolution/Management	\$	500,000	\$	500,000

TOTAL GRF General Revenue Fund		\$	500,000	\$	500,000

General Services Fund Group

4B6 145-601	Gifts and Grants	\$	140,000	\$	140,000
TOTAL GSF General Services Fund Group		\$	140,000	\$	140,000

Federal Special Revenue Fund Group

3S6 145-602	Dispute Resolution: Federal	\$	140,000	\$	140,000
TOTAL FED Federal Special Revenue Fund Group		\$	140,000	\$	140,000

TOTAL ALL BUDGET FUND GROUPS		\$	780,000	\$	780,000

COMMISSION ON DISPUTE RESOLUTION/MANAGEMENT

The foregoing appropriation item 145-401, Commission on Dispute Resolution/Management, shall be used in each fiscal year by the Commission on Dispute Resolution and Conflict Management for the purpose of providing dispute resolution and conflict management training, consultation, and materials for state and local government, communities, school districts, and courts and, in consultation with the Department of Education, for the purpose of offering competitive school conflict programs to school districts.

The Commission shall assist the Department of Education in the development and dissemination of the school conflict management programs to school districts.

SECTION 41. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF 200-100	Personal Services	\$	12,211,314	\$	12,211,314
GRF 200-320	Maintenance and Equipment	\$	5,066,249	\$	5,066,249
GRF 200-408	Public Preschool	\$	19,018,551	\$	19,018,551
GRF 200-410	Professional Development	\$	29,490,073	\$	29,765,073
GRF 200-411	Family and Children First	\$	3,324,750	\$	3,324,750
GRF 200-420	Technical Systems Development	\$	5,703,750	\$	5,703,750
GRF 200-421	Alternative Education Programs	\$	16,135,547	\$	16,135,547
GRF 200-422	School Management Assistance	\$	1,778,000	\$	1,778,000
GRF 200-424	Policy Analysis	\$	592,220	\$	592,220
GRF 200-425	Tech Prep Consortia Support	\$	2,133,213	\$	2,133,213
GRF 200-426	Ohio Educational Computer Network	\$	34,331,741	\$	34,331,741
GRF 200-427	Academic Standards	\$	9,000,592	\$	9,000,592
GRF 200-431	School Improvement Initiatives	\$	10,905,625	\$	10,905,625
GRF 200-433	Reading/Writing/Math Improvement	\$	20,488,264	\$	20,488,264
GRF 200-437	Student Assessment	\$	41,353,391	\$	45,953,391
GRF 200-439	Accountability/Report Cards	\$	4,087,500	\$	4,087,500
GRF 200-441	American Sign Language	\$	207,717	\$	207,717
GRF 200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633
GRF 200-445	OhioReads Admin/Volunteer Support	\$	4,500,000	\$	4,500,000
GRF 200-446	Education Management Information System	\$	16,928,969	\$	16,928,969
GRF 200-447	GED Testing/Adult High School	\$	1,829,106	\$	1,829,106
GRF 200-448	Educator Preparation	\$	24,375	\$	24,375
GRF 200-449	Head Start/Head Start Plus Start Up	\$	11,000,000	\$	5,000,000
GRF 200-452	Teaching Success Commission Initiatives	\$	1,650,000	\$	1,650,000
GRF 200-455	Community Schools	\$	4,231,842	\$	4,231,842
GRF 200-500	School Finance Equity	\$	14,039,495	\$	7,819,443
GRF 200-501	Base Cost Funding	\$	4,391,033,023	\$	4,409,958,425
GRF 200-502	Pupil Transportation	\$	394,950,126	\$	404,245,812
GRF 200-503	Bus Purchase Allowance	\$	17,199,960	\$	17,199,960
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025
GRF 200-509	Adult Literacy Education	\$	8,774,250	\$	8,774,250
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356
GRF 200-513	Student Intervention Services	\$	38,890,815	\$	41,090,815
GRF 200-514	Postsecondary Adult	\$	19,919,464	\$	19,919,464

GRF 200-520	Career-Technical Education Disadvantaged Pupil Impact Aid	\$	371,766,738	\$	373,266,738
GRF 200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031
GRF 200-525	Parity Aid	\$	320,677,373	\$	426,951,154
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$	55,803,103	\$	55,803,103
GRF 200-540	Special Education Enhancements	\$	137,214,484	\$	139,536,046
GRF 200-545	Career-Technical Education Enhancements	\$	14,572,907	\$	14,572,907
GRF 200-546	Charge-Off Supplement	\$	48,478,418	\$	48,478,418
GRF 200-558	Emergency Loan Interest Subsidy	\$	3,022,500	\$	2,300,000
GRF 200-566	OhioReads Grants	\$	12,874,777	\$	12,832,272
GRF 200-578	Safe and Supportive Schools	\$	3,576,348	\$	3,576,348
GRF 200-901	Property Tax Allocation - Education	\$	783,350,000	\$	822,360,000
GRF 200-906	Tangible Tax Exemption - Education	\$	70,710,000	\$	67,710,000
TOTAL GRF General Revenue Fund		\$	7,149,334,615	\$	7,317,750,989
General Services Fund Group					
138 200-606	Computer Services	\$	7,404,690	\$	7,635,949
4D1 200-602	Ohio Prevention/Education Resource Center	\$	347,000	\$	347,000
4L2 200-681	Teacher Certification and Licensure	\$	5,038,017	\$	5,236,517
452 200-638	Miscellaneous Revenue	\$	500,000	\$	500,000
5B1 200-651	Child Nutrition Services	\$	800,000	\$	800,000
5H3 200-687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000
596 200-656	Ohio Career Information System	\$	516,694	\$	529,761
TOTAL GSF General Services Fund Group		\$	32,606,401	\$	33,049,227
Federal Special Revenue Fund Group					
3C5 200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746
3D1 200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966
3D2 200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500
3H9 200-605	Head Start Collaboration Project	\$	275,000	\$	275,000
3L6 200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528
3L7 200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254
3L8 200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830
3L9 200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701
3M0 200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184
3M1 200-678	Innovative Education	\$	15,041,997	\$	16,094,937
3M2 200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575
3S2 200-641	Education Technology	\$	19,682,057	\$	20,469,339
3T4 200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113
3Y2 200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000

Am. Sub. H. B. No. 95

1904

3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031
309	200-601	Educationally Disadvantaged	\$	22,148,769	\$	22,899,001
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631
368	200-614	Veterans' Training	\$	626,630	\$	655,587
369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672
		Federal Enhancement				
370	200-624	Education of Exceptional Children	\$	1,933,910	\$	1,933,910
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370
TOTAL FED Federal Special Revenue Fund Group			\$	1,320,564,139	\$	1,414,191,626
State Special Revenue Fund Group						
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400
4V7	200-633	Interagency Support	\$	800,000	\$	800,000
454	200-610	Guidance and Testing	\$	956,761	\$	956,761
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624
5U2	200-685	National Education Statistics	\$	200,000	\$	200,000
5W2	200-663	Head Start Plus/Head Start	\$	57,170,000	\$	108,184,000
5X8	200-453	Jobs for Ohio Graduates Program	\$	3,500,000	\$	3,500,000
598	200-659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000
TOTAL SSR State Special Revenue Fund Group			\$	81,266,171	\$	132,844,695
Lottery Profits Education Fund Group						
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300
017	200-682	Lease Rental Payment Reimbursement	\$	31,776,500	\$	31,704,700
TOTAL LPE Lottery Profits Education Fund Group			\$	637,900,000	\$	637,900,000
Revenue Distribution Fund Group						
053	200-900	School District Property Tax Replacement	\$	115,911,593	\$	115,911,593
TOTAL RDF Revenue Distribution Fund Group			\$	115,911,593	\$	115,911,593
TOTAL ALL BUDGET FUND GROUPS			\$	9,337,582,973	\$	9,651,648,130

SECTION 41.01. PERSONAL SERVICES

Of the foregoing appropriation item 200-100, Personal Services, \$1,630,181 in each fiscal year shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

MAINTENANCE AND EQUIPMENT

Of the foregoing appropriation item 200-320, Maintenance and

Equipment, up to \$25,000 may be expended in each fiscal year for State Board of Education out-of-state travel.

Of the foregoing appropriation item 200-320, Maintenance and Equipment, \$692,014 in each fiscal year shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

SECTION 41.02. PUBLIC PRESCHOOL

The Department of Education shall distribute the foregoing appropriation item 200-408, Public Preschool, to pay the costs of comprehensive preschool programs. As used in this section, "school district" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(A) In each fiscal year, up to two per cent of the total appropriation may be used by the department for program support and technical assistance; developing program capacity; and assisting programs with facilities planning, construction, renovation, or lease agreements in conjunction with the Community Development Finance Fund (CDFF). The Department shall distribute the remainder of the appropriation in each fiscal year to serve children from families earning not more than 185 per cent of the federal poverty guidelines.

(B) The department shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Head Start agencies, and other interested parties regarding the Public Preschool Program and performance indicators, as outlined by the Department.

(C) For purposes of this section, "eligible child" means a child who is at least three years of age, is not of the age to be eligible for kindergarten, and whose family earns not more than 185 per cent of the federal poverty guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2004 and fiscal year 2005, the Department shall distribute funds first to recipients of funds under the program in the previous fiscal year and the balance to new recipients. Awards under this section shall be distributed on a per-pupil basis, which the Department may adjust so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by the Department, reported on the first day of December or the first business day following that date equals the amount allocated under division (A) of this section. The Department may increase the per-pupil amount by a

reasonable percentage for inflation, to be determined by the Department.

The Department may reallocate unobligated or unspent money to participating school districts for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) Costs for developing and administering a preschool program may not exceed fifteen per cent of the total approved costs of the program.

All recipients of funds shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved recipient for purposes provided in the program unless, as described in division (J) of this section, a preschool program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or program performance standards. The approved recipient shall administer and use such property and funds for the purposes specified.

(F) The Department shall prescribe target levels for critical performance indicators for the purpose of assessing public preschool programs. On-site reviews and follow-up visits shall be based on progress in meeting the prescribed target levels.

(G) The Department may examine a recipient's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the Head Start performance standards or exhibits below average performance as measured against the performance indicators outlined in division (F) of this section, the preschool program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the school district board of education and the appropriate grantee official. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the public preschool program. The Department may withhold funding pending corrective action. If a public preschool program fails to satisfactorily complete a corrective action plan, the Department may either deny expansion funding to the program or withdraw all or part of the public preschool funding from the agency and establish a new state-funded agency through a competitive bidding process established by the Department.

(H) The department shall require public preschool programs to document child progress, using research-based indicators as prescribed by the department, and report results annually. The department shall determine the dates for documenting and reporting.

(I) Each school district shall develop a sliding fee scale based on family incomes in the district and shall charge families who earn more than the federal poverty guidelines for preschool.

(J) If a public preschool program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or program performance standards, the grantee and delegate shall transfer control of title to property, equipment, and remaining supplies obtained through the program to designated grantees and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the competitive bidding process established by the Department.

SECTION 41.03. PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 200-410, Professional Development, \$5,200,000 in fiscal year 2004 shall be used by the Department of Education to support a statewide comprehensive system of regional professional development centers that support local educators' ability to foster academic achievement in the students they serve. Of the foregoing appropriation item 200-410, Professional Development, \$5,200,000 in fiscal year 2005 shall be used by the regional education delivery system. Before releasing these funds in fiscal year 2005, the Department of Education shall submit a spending plan to the Controlling Board. The release of the funds is contingent on Controlling Board approval of the spending plan. Both the regional professional development centers in fiscal year 2004 and the regional education delivery system in fiscal year 2005 shall include training that assists educators, school leadership, and technical assistance providers in understanding and implementing standards-based education, data analysis, and development of assessment systems for quality instruction.

Of the foregoing appropriation item 200-410, Professional Development, \$7,079,625 in fiscal year 2004 and \$7,329,625 in fiscal year 2005 shall be used by the Department of Education to provide grants to pay

\$2,000 of the application fee in order to assist teachers from public and chartered nonpublic schools applying for the first time to the National Board for Professional Teaching Standards for professional teaching certificates or licenses that the board offers. This set aside shall also be used to recognize and reward teachers who become certified by the National Board for Professional Teaching Standards pursuant to section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal year of this set aside may be used by the Department to pay for costs associated with activities to support candidates through the application and certification process.

These moneys shall be used to pay up to the first 500 applications in fiscal year 2004 and the first 400 applications in fiscal year 2005 received by the Department.

Of the foregoing appropriation item 200-410, Professional Development, up to \$10,442,358 in each fiscal year shall be allocated for entry year programs. These funds shall be used to support mentoring services and performance assessments of beginning teachers in school districts and chartered nonpublic schools.

Of the foregoing appropriation item 200-410, Professional Development, up to \$188,090 in each fiscal year shall be used to provide technical assistance and grants for districts to develop local knowledge/skills-based compensation systems. Each district receiving grants shall issue an annual report to the Department of Education detailing the use of the funds and the impact of the system developed by the district.

Of the foregoing appropriation item 200-410, Professional Development, up to \$670,000 in each fiscal year shall be used for training and professional development of school administrators, school treasurers, and school business officials.

Of the foregoing appropriation item 200-410, Professional Development, \$144,000 in each fiscal year shall be used by the Department of Education to develop a supply and demand report that describes the availability of quality educators and critical educator shortage areas in Ohio.

Of the foregoing appropriation item 200-410, Professional Development, \$1,056,000 in each fiscal year shall be used for educator recruitment programs targeting special need areas, including recruiting highly qualified minority candidates into teaching, recruiting prospective mathematics and science teachers, and targeting other areas of special need.

Of the foregoing appropriation item 200-410, Professional Development, \$60,000 in fiscal year 2004 and \$70,000 in fiscal year 2005 shall be used to support the Ohio University Leadership Program.

Of the foregoing appropriation item 200-410, Professional

Development, \$4,650,000 in each fiscal year shall be allocated by the Department of Education on a per pupil basis, to school districts in academic emergency. These funds shall be used by the districts to provide an equivalent of five days of ongoing embedded professional development for classroom teachers who provide instruction in the subject areas of reading, writing, mathematics, science, or social studies to students enrolled in the ninth or tenth grade. This professional development shall focus on developing subject competency, developing cultural competency, developing skills for analyzing test data, and developing data-based intervention strategies to prepare students below grade level to pass the Ohio Graduation Test. Districts shall submit a research-based, professional development plan for five days of embedded professional development to the Department of Education prior to receiving funds. The plan shall detail how ninth and tenth grade teachers will learn and implement classroom strategies for students to reach state standards in mathematics, reading, writing, social studies, and science.

SECTION 41.04. TECHNICAL SYSTEMS DEVELOPMENT

The foregoing appropriation item 200-420, Technical Systems Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and customer service of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators.

ALTERNATIVE EDUCATION PROGRAMS

There is hereby created the Alternative Education Advisory Council, which shall consist of one representative from each of the following agencies: the Ohio Department of Education; the Department of Youth Services; the Ohio Department of Alcohol and Drug Addiction Services; the Department of Mental Health; the Office of the Governor or, at the Governor's discretion, the Office of the Lieutenant Governor; the Office of the Attorney General; and the Office of the Auditor of State.

Of the foregoing appropriation item 200-421, Alternative Education Programs, not less than \$7,529,274 in each fiscal year shall be used for the renewal of successful implementation grants and for competitive matching grants to the 21 urban school districts as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998, and not less

than \$7,494,820 in each fiscal year shall be used for the renewal of successful implementation of grants and for competitive matching grants to rural and suburban school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs where the grant would not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$75,000 in each fiscal year shall be used to support the Toledo Tech Academy.

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$449,235 in each fiscal year may be used for program administration, monitoring, technical assistance, support, research, and evaluation. Any unexpended balance may be used to provide additional matching grants to urban, suburban, or rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$287,218 in each fiscal year shall be used to contract with the Center for Learning Excellence at The Ohio State University to provide technical support for the project and the completion of formative and summative evaluation of the grants.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$300,000 in each fiscal year shall be used to support Amer-I-Can. Of this set-aside, no funds shall be disbursed without approval of the Controlling Board. Amer-I-Can programs shall submit to the Controlling Board a biennial spending plan that delineates how these funds will be spent. Amer-I-Can programs also shall demonstrate to the Controlling Board that they have hired an independent evaluator and have selected valid and reliable instruments to assess pre and post changes in student behavior.

SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200-422, School Management Assistance, \$351,000 in each fiscal year shall be used by the Auditor of State for expenses incurred in the Auditor of State's role relating to fiscal caution activities as defined in Chapter 3316. of the Revised Code. Expenses include duties related to the completion of performance audits for school districts that the Superintendent of Public Instruction determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal watch and fiscal emergency provisions under Chapter 3316. of the Revised Code.

POLICY ANALYSIS

The foregoing appropriation item 200-424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200-425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development,

assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200-426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$18,592,763 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist data acquisition sites or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, or any community school established under Chapter 3314. of the Revised Code, or any educational service center building used for instructional purposes, or the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$1,884,355 in each fiscal year shall be used for the Union Catalog and InfOhio Network.

The Department of Education shall use up to \$3,412,500 in each fiscal year to assist designated data acquisition sites with operational costs associated with the increased use of the state's education network by chartered nonpublic schools. The Department of Education shall use the same per building amount as used to provide connectivity subsidy funds to public school buildings.

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. The technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. Program funds

may be used, through a formula and guidelines devised by the department, to subsidize the activities of designated data acquisition sites, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems. To broaden the scope of the use of technology for education, the Department may use up to \$223,762 in each fiscal year to coordinate the activities of the computer network with other agencies funded by the department or the state. In order to improve the efficiency of network activities, the department and data acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the department, may utilize the services of appropriate state purchasing agencies.

ACADEMIC STANDARDS

Of the foregoing appropriation item 200-427, Academic Standards, up to \$731,250 in each fiscal year shall be used to provide funds to school districts that have one or more teachers participating in the teachers-on-loan program.

The remainder of appropriation item 200-427, Academic Standards, shall be used by the Department of Education to develop and communicate to school districts academic content standards and curriculum models. The Department of Education shall communicate these standards and curricula to school districts primarily through Internet website postings and electronic mail.

SECTION 41.05. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$10,505,625 in each fiscal year shall be used to provide technical assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code to provide support to districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$350,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city

students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$50,000 in each fiscal year shall be used to support LEAF.

READING/WRITING/MATH IMPROVEMENT

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$12,675,000 in each fiscal year shall be used for professional development in literacy for classroom teachers, administrators, and literacy specialists, and to provide intensive summer training for mathematics teachers.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, \$250,000 in each fiscal year shall be used to continue the Waterford Early Reading Program.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$1,000,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this appropriation item also may be used to conduct evaluations of the impact and effectiveness of Reading Recovery and other reading improvement programs.

The remainder of appropriation item 200-433, Reading/Writing/Math Improvement, shall be used to support standards-based classroom reading and writing instruction and reading intervention and the design/development of standards-based literacy curriculum materials; to support literacy professional development partnerships between the Department of Education, higher education institutions, the literacy specialists project, the Ohio principals' literacy network, regional literacy teams, literacy networks, and school districts.

STUDENT ASSESSMENT

Of the foregoing appropriation item 200-437, Student Assessment, \$500,000 in fiscal year 2004 and \$100,000 in fiscal year 2005 shall be used by the Department of Education to train school district personnel to score the practice version of the Ohio Graduation Test to be taken by students enrolled in the ninth grade in school districts in academic watch or academic emergency pursuant to sections 3301.0710 and 3301.0711 of the Revised Code.

The remainder of appropriation item 200-437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710 and 3301.0711 of the Revised Code and for similar purposes as

required by section 3301.27 of the Revised Code.

ACCOUNTABILITY/REPORT CARDS

The foregoing appropriation item 200-439, Accountability/Report Cards, shall be used for the development of an accountability system that includes the preparation and distribution of school report cards pursuant to section 3302.03 of the Revised Code.

AMERICAN SIGN LANGUAGE

Of the foregoing appropriation item 200-441, American Sign Language, up to \$136,943 in each fiscal year shall be used to implement pilot projects for the integration of American Sign Language deaf language into the kindergarten through twelfth-grade curriculum.

The remainder of the appropriation shall be used by the Department of Education to provide supervision and consultation to school districts in dealing with parents of children who are deaf or hard of hearing, in integrating American Sign Language as a foreign language, and in obtaining interpreters and improving their skills.

CHILD CARE LICENSING

The foregoing appropriation item 200-442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs in accordance with sections 3301.52 to 3301.59 of the Revised Code.

OHIOREADS ADMIN/VOLUNTEER SUPPORT

The foregoing appropriation item 200-445, OhioReads Admin/Volunteer Support, may be allocated by the OhioReads Office in the Department of Education at the direction of the OhioReads Council for volunteer coordinators in public school buildings, to educational service centers for costs associated with volunteer coordination, for background checks for volunteers, to evaluate the OhioReads Program, and for operating expenses associated with administering the program.

SECTION 41.06. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200-446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$1,295,857 in each fiscal year shall be distributed to designated data acquisition sites for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software

development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$8,055,189 in each fiscal year shall be distributed on a per-pupil basis to school districts, community schools established under Chapter 3314. of the Revised Code, education service centers, joint vocational school districts, and any other education entity that reports data through EMIS. From this funding, each school district or community school established under Chapter 3314. of the Revised Code with enrollment greater than 100 students and each vocational school district shall receive a minimum of \$5,000 in each fiscal year. Each school district or community school established under Chapter 3314. of the Revised Code with enrollment between one and one hundred and each education service center and each county board of MR/DD that submits data through EMIS shall receive \$3,000 in each fiscal year. This subsidy shall be used for costs relating to reporting, processing, storing, transferring, and exchanging data necessary to meet requirements of the Department of Education's data system.

Of the foregoing appropriation item 200-446, Education Management Information System, \$782,500 in each fiscal year shall be used by the Department of Education, in consultation with an advisory group of school districts, community schools, and other education-related entities, for the development and implementation of a common core of Education Management Information System data definitions and data format standards. Once these definitions and standards have been developed, they shall be approved by the Education Data Advisory Council. Once the standards are approved by the Education Data Advisory Council, any software meeting the standards shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, data acquisition centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts and community schools shall implement a common and uniform set of data definitions and data format standards for Education Management Information System purposes by July 1, 2004. The Department of Education shall work with data acquisition sites and their member school districts and community schools to implement those uniform standards. School districts and community schools that do not adopt and implement the uniform data definitions and standards by July 1, 2004, as jointly determined by the Department of Education software development team and the advisory group shall have all EMIS funding withheld until they are in compliance.

GED TESTING/ADULT HIGH SCHOOL

The foregoing appropriation item 200-447, GED Testing/Adult High School, shall be used to provide General Educational Development (GED) testing at no cost to applicants, pursuant to rules adopted by the State Board of Education. The Department of Education shall reimburse school districts and community schools, created in accordance with Chapter 3314. of the Revised Code, for a portion of the costs incurred in providing summer instructional or intervention services to students who have not graduated due to their inability to pass one or more parts of the state's ninth grade proficiency test. School districts shall also provide such services to students who are residents of the district pursuant to section 3313.64 of the Revised Code, but who are enrolled in chartered, nonpublic schools. The services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off the nonpublic school premises. No school district shall provide summer instructional or intervention services to nonpublic school students as authorized by this section unless such services are available to students attending the public schools within the district. No school district shall provide services for use in religious courses, devotional exercises, religious training, or any other religious activity. Chartered, nonpublic schools shall pay for any unreimbursed costs incurred by school districts for providing summer instruction or intervention services to students enrolled in chartered, nonpublic schools. School districts may provide these services to students directly or contract with postsecondary or nonprofit community-based institutions in providing instruction. The appropriation also shall be used for state reimbursement to school districts for adult high school continuing education programs pursuant to section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code.

EDUCATOR PREPARATION

The foregoing appropriation item 200-448, Educator Preparation, shall be used by the Ohio Teacher Education and Licensure Advisory Commission to carry out the responsibilities of the 21-member Ohio Teacher Education and Licensure Advisory Commission. The advisory commission is charged by the State Board of Education with considering all matters related to educator preparation and licensure, including standards for educator preparation and licensure, approval of institutions and programs, and recommending decisions to the State Board of Education.

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP

The foregoing appropriation item 200-449, Head Start/Head Start Plus Start Up, shall be used to provide start up grants for Title IV-A reimbursable funding for the provision of services to children eligible for Title IV-A services. In fiscal year 2004, these grants shall be provided to Title IV-A Head Start agencies. In fiscal year 2005, these grants shall be provided to Title IV-A Head Start agencies and Title IV-A Head Start Plus agencies. The amount of each grant shall be determined by the Department of Education. Funds appropriated for this purpose shall be reimbursed to the General Revenue Fund when the Title IV-A Head Start or Title IV-A Head Start Plus programs cease or are no longer funded from Title IV-A. If one program ceases or is no longer funded with Title IV-A funds, the General Revenue Fund will be reimbursed for that program.

If a Title IV-A Head Start agency or Title IV-A Head Start Plus agency chooses not to participate in the program or if the Department of Education suspends or terminates part or all of its funding, reimbursement owed to the grantee shall be held by the Department of Education up to the amount of the grant owed by the grantee. If insufficient reimbursement is available to recover the amount owed by the grantee, the grantee shall return the remaining balance within 60 days of the date of the decision not to participate, the suspension, or the termination. Funding recovered from such grantees shall be used by the Department of Education for supplying grants to new grantees for Title IV-A reimbursable funding for provision of services to children eligible for Title IV-A services. Any funding remaining when the Title IV-A Head Start and the Title IV-A Head Start Plus programs cease or are no longer funded with Title IV-A funds shall be returned to the General Revenue Fund.

The Title IV-A Head Start Plus agency that is receiving funds to operate a Head Start program in accordance with section 3301.35 of the Revised Code shall provide the program through contracts with child care providers licensed or certified in accordance with Chapter 5104. of the Revised Code.

If a licensed or certified child care provider is not in operation or willing to participate and if eligible families are in need of full-day and full-year Head Start and child care services, the Title IV-A Head Start Plus agency may be the sole source provider.

TEACHING SUCCESS COMMISSION INITIATIVES

The foregoing appropriation item 200-452, Teaching Success Commission Initiatives, shall be used by the Department of Education to support initiatives recommended by the Governor's Commission on Teaching Success.

COMMUNITY SCHOOLS

Of the foregoing appropriation item 200-455, Community Schools, up to \$1,308,661 in each fiscal year may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code.

Of the foregoing appropriation item 200-455, Community Schools, up to \$250,000 in each fiscal year may be used by the Department of Education for developing and conducting training sessions for sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code. In developing such training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

The remaining appropriation may be used by the Department of Education to make grants of up to \$50,000 to each proposing group with a preliminary agreement obtained under division (C)(2) of section 3314.02 of the Revised Code in order to defray planning and initial start-up costs. In the first year of operation of a community school, the Department of Education may make a grant of not more than \$100,000 to the governing authority of the school to partially defray additional start-up costs. The amount of the grant shall be based on a thorough examination of the needs of the community school. The Department of Education shall not utilize moneys received under this section for any other purpose other than those specified under this section.

A community school awarded start-up grants from appropriation item 200-613, Public Charter Schools (Fund 3T4), shall not be eligible for grants under this section.

SECTION 41.07. SCHOOL FINANCE EQUITY

The foregoing appropriation item 200-500, School Finance Equity, shall be distributed to school districts based on the formula specified in section

3317.0213 of the Revised Code.

SECTION 41.08. BASE COST FUNDING

The foregoing appropriation item 200-501, Base Cost Funding, includes \$90,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. This amount represents the total state education aid offset due to the valuation change for school districts and joint vocational school districts from all relevant appropriation line item sources. If it is determined that the state education aid offset is more than \$90,000,000, the Controlling Board may increase the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount if presented with such a request from the Department of Education. The appropriation increase, if any, is hereby appropriated. If it is determined that the state education aid offset is less than \$90,000,000, the Director of Budget and Management shall then reduce the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount and notify the Controlling Board of this action. The appropriation decrease determined by the Director of Budget and Management, if any, is hereby approved, and appropriations are hereby reduced by the amount determined.

Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$425,000 shall be expended in each fiscal year for court payments pursuant to section 2151.357 of the Revised Code; an amount shall be available in each fiscal year for the cost of reappraisal guarantee pursuant to section 3317.04 of the Revised Code; an amount shall be available in each fiscal year to fund up to 225 full-time equivalent approved GRADS teacher grants pursuant to division (R) of section 3317.024 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (A)(2) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (F) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (C) of section 3317.0212 of the Revised Code; and up to \$15,000,000 in each fiscal year shall be reserved for payments pursuant to sections 3317.026, 3317.027, and 3317.028 of the Revised Code except that the Controlling Board may increase the \$15,000,000 amount if presented with such a request from the Department of Education. Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year shall be used to provide additional state aid to school districts for special education students pursuant

to division (C)(3) of section 3317.022 of the Revised Code; up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments pursuant to section 3317.024 of the Revised Code; and up to \$52,000,000 in each fiscal year shall be reserved to fund the state reimbursement of educational service centers pursuant to section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be available for special education weighted funding pursuant to division (C)(1) of section 3317.022 and division (D)(1) of section 3317.16 of the Revised Code.

Of the foregoing appropriation item 200-501, Base Cost Funding, an amount shall be available in each fiscal year to be used by the Department of Education for transitional aid for school districts. Funds shall be distributed pursuant to the section of this act entitled "TRANSITIONAL AID."

Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$1,000,000 in each fiscal year shall be used by the Department of Education for a pilot program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section titled "Private Treatment Facility Pilot Project."

The remaining portion of appropriation item 200-501, Base Cost Funding, shall be expended for the public schools of city, local, exempted village, and joint vocational school districts, including base cost funding, special education speech service enhancement funding, career-technical education weight funding, career-technical education associated service funding, guarantee funding, and teacher training and experience funding pursuant to sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised Code.

Appropriation items 200-500, School Finance Equity, 200-501, Base Cost Funding, 200-502, Pupil Transportation, 200-520, Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 200-525, Parity Aid, and 200-546, Charge-Off Supplement, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts and joint vocational school districts pursuant to Chapter 3317. of the Revised Code. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations under Chapter 3317. of the Revised Code. It may be necessary to reallocate funds among these appropriation items in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items to meet state formula aid obligations,

the Department of Education shall seek approval from the Controlling Board to transfer funds among these appropriation items.

SECTION 41.09. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200-502, Pupil Transportation, up to \$822,400 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$56,975,910 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county MR/DD boards for transportation operating costs as provided in division (M) of section 3317.024 of the Revised Code. The remainder of appropriation item 200-502, Pupil Transportation, shall be used for the state reimbursement of public school districts' costs in transporting pupils to and from the school they attend in accordance with the district's policy, State Board of Education standards, and the Revised Code.

BUS PURCHASE ALLOWANCE

The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts, educational service centers, and county MR/DD boards pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 28 per cent of the amount appropriated may be used to reimburse school districts and educational service centers for the purchase of buses to transport handicapped and nonpublic school students and to county MR/DD boards, the Ohio School for the Deaf, and the Ohio School for the Blind for the purchase of buses to transport handicapped students.

SCHOOL LUNCH MATCH

The foregoing appropriation item 200-505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

SECTION 41.10. ADULT LITERACY EDUCATION

The foregoing appropriation item 200-509, Adult Literacy Education, shall be used to support adult basic and literacy education instructional programs and the State Literacy Resource Center Program.

Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$519,188 in each fiscal year shall be used for the support and operation of the State Literacy Resource Center.

Of the foregoing appropriation item 200-509, Adult Literacy Education,

\$146,250 in each fiscal year shall be used to support initiatives for English as a second language programs in combination with citizenship. Funding shall be provided to organizations that received such funds during fiscal year 2003 from appropriation item 200-570, School Improvement Incentive Grants.

The remainder of the appropriation shall be used to continue to satisfy the state match and maintenance of effort requirements for the support and operation of the Department of Education-administered instructional grant program for adult basic and literacy education in accordance with the department's state plan for adult basic and literacy education as approved by the State Board of Education and the Secretary of the United States Department of Education.

AUXILIARY SERVICES

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,462,500 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students pursuant to section 3365.10 of the Revised Code.

STUDENT INTERVENTION SERVICES

Of the foregoing appropriation item 200-513, Student Intervention Services, \$3,700,000 in fiscal year 2004 and \$5,900,000 in fiscal year 2005 shall be allocated by the Department of Education, on a per pupil basis, to school districts in academic emergency. Districts shall use these funds for salaries, materials, and training to provide after-school, in-school, Saturday school, summer school, or other related intervention programs to students as specified in division (D)(2) of section 3301.0711 of the Revised Code. In fiscal year 2004 these programs shall be provided to students enrolled in the ninth grade. In fiscal year 2005, these programs shall be provided to students enrolled in the ninth and tenth grades. At the end of each fiscal year, the school districts receiving these funds shall report to the Department of Education the number of students who were offered intervention, the number of students who participated, and the number of students who completed the intervention program, and shall provide an evaluation of the impact of the intervention on students.

Of the foregoing appropriation item 200-513, Student Intervention Services, \$150,000 in each fiscal year shall be used for Read Baby Read.

The remainder of appropriation item 200-513, Student Intervention Services, shall be used to assist districts providing the intervention services specified in section 3313.608 of the Revised Code. The Department of

Education shall establish guidelines for the use and distribution of these moneys. School districts receiving funds from this appropriation shall report to the Department of Education on how funds were used.

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION

Of the foregoing appropriation item 200-514, Postsecondary Adult Career-Technical Education, \$40,000 in each fiscal year shall be used for the statewide coordination of the activities of the Ohio Young Farmers.

The remainder of appropriation item 200-514, Postsecondary Adult Career-Technical Education, shall be used by the State Board of Education to provide postsecondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

DISADVANTAGED PUPIL IMPACT AID

Notwithstanding the distribution formula outlined in section 3317.029 of the Revised Code, each school district shall receive an additional two per cent in Disadvantaged Pupil Impact Aid (DPIA) funding in fiscal year 2004 over what was received in fiscal year 2003 unless the district receives DPIA funding from the DPIA guarantee provision pursuant to division (B) of section 3317.029 of the Revised Code in fiscal year 2003. For such a district, its DPIA funding in fiscal year 2004 shall equal the amount of DPIA funding the district received in fiscal year 2003.

Notwithstanding the distribution formula outlined in section 3317.029 of the Revised Code, each school district shall receive an additional two per cent in DPIA funding in fiscal year 2005 over what was received in fiscal year 2004 unless the district receives DPIA funding from the DPIA guarantee provision pursuant to division (B) of section 3317.029 of the Revised Code in fiscal year 2003. For such a district, its DPIA funding in fiscal year 2005 shall equal the amount of DPIA funding the district received in fiscal year 2004.

School districts must continue to comply with all expenditure guidelines and restrictions outlined in divisions (F), (G), (I), and (K) of section 3317.029 of the Revised Code by assuming a two per cent increase in funds for each program outlined in divisions (C), (D), and (E) of section 3317.029 of the Revised Code and by assuming a DPIA index equivalent to the index calculated in fiscal year 2003.

The Department of Education shall pay all-day, everyday kindergarten funding to all school districts in each fiscal year that qualified for and provided the service in fiscal year 2003 pursuant to section 3317.029 of the Revised Code. School districts and community schools that did not have a DPIA allocation in fiscal year 2003 shall not receive an allocation in fiscal year 2004 or fiscal year 2005.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be used for school breakfast programs. Of this amount, up to \$1,000,000 shall be used in each fiscal year by the Department of Education for the purpose of increasing participation in child nutrition programs, particularly school breakfast and summer meals. The Department shall collaborate with the Children's Hunger Alliance in the outreach effort. The remainder of the appropriation shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program pursuant to section 3313.813 of the Revised Code, at a rate decided by the Department.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, \$4,500,000 in fiscal year 2004 and \$6,000,000 in fiscal year 2005 shall be used to operate the school choice program in the Cleveland Municipal School District pursuant to sections 3313.974 to 3313.979 of the Revised Code.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District pursuant to sections 3313.974 to 3313.979 of the Revised Code.

SECTION 41.11. GIFTED PUPIL PROGRAM

The foregoing appropriation item 200-521, Gifted Pupil Program, shall be used for gifted education units not to exceed 1,110 in each fiscal year pursuant to division (P) of section 3317.024 and division (F) of section 3317.05 of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, up to \$5,000,000 each in fiscal year may be used as an additional supplement for identifying gifted students pursuant to Chapter 3324. of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, the Department of Education may expend up to \$1,000,000 in each fiscal year for the Summer Honors Institute for gifted freshman and sophomore high school students. Up to \$600,000 in each fiscal year shall be used for research and demonstration projects. The Department of Education shall research and evaluate the effectiveness of gifted education programs in Ohio. Up to \$70,000 in each fiscal year shall be used for the Ohio Summer School for the Gifted (Martin Essex Program).

SECTION 41.12. PARITY AID

The foregoing appropriation item 200-525, Parity Aid, shall be distributed to school districts based on the formulas specified in section 3317.0217 of the Revised Code.

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200-532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 41.13. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$44,204,000 in fiscal year 2004 and up to \$45,441,712 in fiscal year 2005 shall be used to fund special education and related services at county boards of mental retardation and developmental disabilities for eligible students under section 3317.20 of the Revised Code. Up to \$2,452,125 shall be used in each fiscal year to fund special education classroom and related services units at institutions.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$2,906,875 in each fiscal year shall be used for home instruction for children with disabilities; up to \$1,462,500 in each fiscal year shall be used for parent mentoring programs; and up to \$2,783,396 in each fiscal year may be used for school psychology interns.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$3,406,090 in each fiscal year shall be used by the Department of Education to assist school districts in funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 3301-51-04 of the Administrative Code.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$78,384,498 in each fiscal year shall be distributed by the Department of Education to county boards of mental retardation and developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units in accordance with section 3317.161 of the Revised Code. The department may reimburse county boards of mental retardation and developmental disabilities, educational service centers, and school districts for related services as defined in rule 3301-31-05 of the Administrative Code, for preschool occupational and physical therapy services provided by a physical therapy assistant and certified occupational therapy assistant, and for an instructional assistant. To the greatest extent possible, the Department of

Education shall allocate these units to school districts and educational service centers. The Controlling Board may approve the transfer of unallocated funds from appropriation item 200-501, Base Cost Funding, to appropriation item 200-540, Special Education Enhancements, to fully fund existing units as necessary or to fully fund additional units. The Controlling Board may approve the transfer of unallocated funds from appropriation item 200-540, Special Education Enhancements, to appropriation item 200-501, Base Cost Funding, to fully fund the special education weight cost funding.

The Department of Education shall require school districts, educational service centers, and county MR/DD boards serving preschool children with disabilities to document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and methodology shall be determined by the Department.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$315,000 in each fiscal year shall be expended to conduct a demonstration project involving language and literacy intervention teams supporting student acquisition of language and literacy skills. The demonstration project shall demonstrate improvement of language and literacy skills of at-risk learners under the instruction of certified speech pathologists and educators. Baseline data shall be collected and comparison data for fiscal year 2004 and fiscal year 2005 shall be collected and reported to the Governor, Ohio Reads Council, Department of Education, and the General Assembly.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$500,000 in each fiscal year shall be used for the Research-Based Reading Mentoring Program.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$600,000 in each fiscal year shall be used to support the Bellefaire Jewish Children's Bureau.

SECTION 41.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,576,107 in each fiscal year shall be used to fund career-technical education units at institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,925,000 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs.

These grant funds shall be used to directly support expanded tech prep programs, including equipment, provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$2,225,000 in each fiscal year shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the instruction of students in job skills taught as part of a career-technical program or programs approved for such instruction by the State Board of Education. School districts replacing or updating career-technical education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of full-time equivalent workforce development teachers in all eligible districts making application for funds.

The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted under either process shall be provided to a school district at 30, 40, or 50 per cent of cost on the basis of a rating developed by the Department of Education using the state share percentage as provided in division (B)(2) of section 3317.022 of the Revised Code.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,650,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. It provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$2,400,000 in each fiscal year shall be used for K-12 career development.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$496,800 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries,

rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the \$300,000 set aside.

SECTION 41.15. CHARGE-OFF SUPPLEMENT

The foregoing appropriation item 200-546, Charge-Off Supplement, shall be used by the Department of Education to make payments pursuant to section 3317.0216 of the Revised Code.

EMERGENCY LOAN INTEREST SUBSIDY

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

SECTION 41.16. OHIOREADS GRANTS

Of the foregoing appropriation item 200-566, OhioReads Grants, the OhioReads Office in the Department of Education shall use \$2,125,223 in fiscal year 2004 and \$2,167,728 in fiscal year 2005 to fund the STARS program.

The remainder of the foregoing appropriation item 200-566, OhioReads Grants, shall be disbursed by the OhioReads Office in the Department of Education at the direction of the OhioReads Council to provide grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through fourth grade students to support local reading literacy initiatives including reading programs, materials, professional development, tutoring, tutor recruitment and training, and parental involvement.

Grants awarded by the OhioReads Council are intended to improve reading outcomes, especially on reading proficiency tests.

SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$20,000 in each fiscal year may be used by schools for the Eddie Eagle Gun Safety Pilot Program. School districts wishing to participate in the pilot program shall apply to the Department of Education under guidelines established by the Superintendent of Public Instruction.

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$1,800,000 in each fiscal year shall be used for a safe school help line.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs.

SECTION 41.17. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred due to the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption - Education, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. In cooperation with the Department of Taxation, the

Department of Education shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer pursuant to division (G) of section 321.24 of the Revised Code, for all school districts located in the county, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Department of Education among the appropriate school districts.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and 200-906, Tangible Tax Exemption - Education, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 41.18. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200-681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer teacher certification and licensure functions pursuant to sections 3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 3319.51 of the Revised Code.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

Of the foregoing appropriation item 200-687, School District Solvency Assistance, \$9,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$9,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent pursuant to section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H3).

SECTION 41.19. HEAD START PLUS/HEAD START

There is hereby established the Title IV-A Head Start Program to be administered by the Department of Education in accordance with an interagency agreement entered into with the Department of Job and Family Services under division (A)(2) of section 5101.801 of the Revised Code. The program shall provide benefits and services to TANF eligible individuals pursuant to the requirements of section 5101.801 of the Revised Code. Upon approval by the Department of Job and Family Services, the Department of Education shall adopt policies and procedures establishing program requirements for eligibility, services, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

The foregoing appropriation item 200-663, Head Start Plus/Head Start, shall be used to reimburse Title IV-A Head Start Plus and Title IV-A Head Start programs for services to children. The Department of Education shall administer the Title IV-A Head Start Plus and Title IV-A Head Start programs in accordance with an interagency agreement between the Departments of Education and Job and Family Services. Title IV-A Head Start Plus and Title IV-A Head Start providers shall meet all requirements as outlined in section 3301.311 of the Revised Code. The Department of Education shall adopt policies and procedures to establish a procedure for approving Title IV-A Head Start Plus and Title IV-A Head Start agencies.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$57,170,000 in fiscal year 2004 shall be used to support the Title IV-A Head Start program. Up to two percent of this amount may be used by the Department of Education to provide associated program support and technical assistance.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$83,457,126 in fiscal year 2005 shall be used to support the Title IV-A Head Start Plus initiative. Title IV-A Head Start Plus shall provide up to 10,000 slots of full-day, full-year programming for children at least three years of age and not kindergarten age eligible. The program shall meet the child care needs of low-income families who meet eligibility requirements established in rules and administrative orders adopted by the Ohio Department of Job and Family Services and provide early education and comprehensive services as provided through the Head Start program before the enactment of this act.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$22,763,177 in fiscal year 2005 shall be used to support the Title

IV-A Head Start program. This funding shall be used to support up to 4,000 slots of traditional half-day center-based, home-based, combination, or locally-designed option, Title IV-A Head Start services.

Of the foregoing appropriation line item 200-663, Head Start Plus/Head Start, up to \$1,963,697 in fiscal year 2005 may be used by the Department of Education to provide associated program support and technical assistance.

For purposes of this section, "eligible child" means a child who is at least three years of age, has not entered kindergarten, and is not of compulsory school age whose family earns not more than 100 per cent of the federal poverty level, except as otherwise provided in the following paragraph.

The Department of Education, in consultation with Title IV-A Head Start agencies and, beginning in July 1, 2004, Title IV-A Head Start Plus agencies, shall establish criteria under which these agencies may apply to the Department for a waiver to include as "eligible children" those children from families earning up to the level of eligibility established for child care subsidy by the Department of Job and Family Services who otherwise qualify as "eligible children" under the preceding paragraph.

In fiscal year 2004, in order to serve children whose families receive child care subsidy and whose incomes do not exceed the income eligibility requirement for child care subsidy, Title IV-A Head Start agencies may enroll children whose families receive this child care subsidy from the Ohio Department of Job and Family Services, if they partner with child care centers or family day care homes, where appropriate. This provision is to meet the child care needs of low-income families who are working, in training or education programs, or participating in Ohio Works First approved activities.

The Department of Education shall conduct a head count of the number of children served by Head Start agencies under this program in December 2003 and in December 2004. Any funding appropriated to this program in fiscal year 2005, which the Department of Education projects is not necessary to provide services to children enrolled as of the head count taken in December 2004 shall be returned to the Department of Job and Family Services for use as child care assistance.

The Department of Education shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Title IV-A Head Start Plus and Title IV-A Head Start providers, and other interested parties regarding the Title IV-A Head Start Plus and Title IV-A Head Start program and performance

indicators as outlined by the Department of Education.

JOBS FOR OHIO GRADUATES PROGRAM

Pursuant to an interagency agreement entered into between the Department of Job and Family Services and the Department of Education, \$3,500,000 from Workforce Investment Act funds (Fund 3V0), reserved for statewide workforce investment activities, in fiscal year 2004 and fiscal year 2005, shall be used to support the Jobs for Ohio Graduates programs administered by the Department of Education.

AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2004 within thirty days after the effective date of this section and \$1,500,000 in fiscal year 2005 by August 1, 2004, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

SECTION 41.20. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200-612, Base Cost Funding (Fund 017), shall be used in conjunction with appropriation item 200-501, Base Cost Funding (GRF), to provide payments to school districts pursuant to Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-501, Base Cost Funding (GRF), and appropriation item 200-612, Base Cost Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the appropriation item 230-428, Lease Rental Payments (GRF), of the School Facilities Commission.

* LOTTERY PROFITS TRANSFERS

On or before the first day of May of each fiscal year, the Director of Budget and Management shall determine if lottery profits transfers will meet the appropriation amounts from the Lottery Profits Education Fund.

SECTION 41.21. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. At no time shall the amount to the credit of the fund exceed \$75,000,000. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. Notwithstanding any provisions of law to the contrary, for fiscal years 2004 and 2005, there is appropriated to the Department of Education, from the Lottery Profits Education Reserve Fund, an amount necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code. All loan repayments from loans made in fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be deposited into the credit of the Lottery Profits Education Reserve Fund.

(B)(1) On or before July 15, 2003, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2003 exceed \$637,722,600. The amount so certified shall be distributed in fiscal year 2004 pursuant to division (C) of this section.

(2) On or before July 15, 2004, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2004 exceed \$637,900,000. The amount so determined shall be distributed in fiscal year 2005 pursuant to division (D) of this section.

The Director of Budget and Management shall annually certify the amounts determined pursuant to this section to the Speaker of the House of Representatives and the President of the Senate.

(C) In fiscal year 2004, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits of \$637,722,600 in fiscal year 2003 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2004. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(D) In fiscal year 2005, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits

transfers of \$637,900,000 in fiscal year 2004 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2005. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(E) In the appropriate fiscal year, any remaining amounts after the operations required by division (C) or (D) of this section, respectively, shall be transferred to the Public School Building Fund (Fund 021) and such amount is appropriated to appropriation item CAP-622, Public School Buildings, in the School Facilities Commission.

SECTION 41.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT

The foregoing appropriation item 200-900, School District Property Tax Replacement, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts pursuant to section 5727.85 of the Revised Code.

SECTION 41.23. * DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 41.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY PAYMENTS

This section shall not take effect unless the Director of Budget and Management adopts an order putting it into effect and certifies a copy of the order to the Superintendent of Public Instruction and the Controlling Board.

Notwithstanding any other provision of the Revised Code, the monthly distribution of payments made to school districts and educational service centers pursuant to section 3317.01 of the Revised Code for the first six months of each fiscal year shall equal, as nearly as possible, six and two-thirds per cent of the estimate of the amounts payable for each fiscal year. The monthly distribution of payments for the last six months of each fiscal year shall equal, as nearly as possible, ten per cent of the final calculation of the amounts payable to each school district for that fiscal year.

The treasurer of each school district or educational service center may accrue, in addition to the payments defined in this section, to the accounts of the calendar years that end during each fiscal year, the difference between the sum of the first six months' payments in each fiscal year and the amounts the district would have received had the payments been made in, as nearly as possible in each fiscal year, twelve equal monthly payments.

Notwithstanding the limitations on the amount of borrowing and time of payment provided for in section 133.10 of the Revised Code but subject to sections 133.26 and 133.30 of the Revised Code, a board of education of a school district may at any time between July 1, 2003, and December 31, 2003, or at any time between July 1, 2004, and December 31, 2004, borrow money to pay any necessary and actual expenses of the school district during the last six months of calendar years 2003 and 2004 and in anticipation of the receipt of any portion of the payments to be received by that district in the first six months of calendar years 2004 and 2005 representing the respective amounts accrued pursuant to the preceding paragraph, and issue notes to evidence that borrowing to mature not later than the thirtieth day of June of the calendar year following the calendar year in which such amount was borrowed. The principal amount borrowed in the last six months of calendar years 2003 or 2004 under this paragraph may not exceed the entire amount accrued or to be accrued by the district treasurer in those calendar years pursuant to the preceding paragraph. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts are lawfully appropriated by the board of education. No board of education shall be required to use the authority granted by this paragraph. The receipts so anticipated, and additional amounts from distributions to the districts in the first six months of calendar years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code needed to pay the interest on the notes, shall be deemed appropriated by the board of education to the extent necessary for the payment of the principal of and interest on the notes at maturity, and the amounts necessary to make those monthly distributions are appropriated from the General Revenue Fund. For the

purpose of better ensuring the prompt payment of principal of and interest on the notes when due, the resolution of the board of education authorizing the notes may direct that the amount of the receipts anticipated, together with those additional amounts needed to pay the interest on the borrowed amounts, shall be deposited and segregated, in trust or otherwise, to the extent, at the time or times, and in the manner provided in that resolution. The borrowing authorized by this section does not constitute debt for purposes of section 133.04 of the Revised Code. School districts shall be reimbursed by the state for all necessary and actual costs to districts arising from this provision, including, without limitation, the interest paid on the notes while the notes are outstanding. The Department of Education shall adopt rules that are not inconsistent with this section for school district eligibility and application for reimbursement of such costs. Payments of these costs shall be made out of any anticipated balances in appropriation items distributed under Chapter 3317. of the Revised Code. The department shall submit all requests for reimbursement under these provisions to the Controlling Board for approval.

During the last six months of each calendar year, instead of deducting the amount the Superintendent of Public Instruction would otherwise deduct from a school district's or educational service center's state aid payments in accordance with the certifications made for such year pursuant to sections 3307.56 and 3309.51 of the Revised Code, the superintendent shall deduct an amount equal to forty per cent of the amount so certified. The secretaries of the retirement systems shall compute the certifications for the ensuing year under such sections as if the entire amounts certified as due in the calendar year ending the current fiscal year, but not deducted pursuant to this paragraph, had been deducted and paid in that calendar year. During the first six months of the ensuing calendar year, in addition to deducting the amounts the Superintendent of Public Instruction is required to deduct under such sections during such period, the superintendent shall deduct from a district's or educational service center's state aid payments an additional amount equal to the amount that was certified as due from the district for the calendar year that ends during the fiscal year, but that was not deducted because of this paragraph. The superintendent's certifications to the Director of Budget and Management during the first six months of the calendar year shall reflect such additional deduction.

SECTION 41.25. EDUCATIONAL SERVICE CENTERS FUNDING

(A) As used in this section:

(1) "Internet- or computer-based community school" has the same

meaning as in section 3314.02 of the Revised Code.

(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code.

(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local school district to a city school district.

(C) Notwithstanding any provision of the Revised Code to the contrary, an educational service center that sponsors a community school under Chapter 3314. of the Revised Code in either fiscal year may include the students of that community school in its service center ADM for purposes of state funding under division (F) of section 3317.11 of the Revised Code, unless the community school is an Internet- or computer-based community school. A service center shall include the community school students in its service center ADM only to the extent that the students are not already so included, and only in accordance with guidelines issued by the Department of Education. If the students of a community school sponsored by an educational service center are included in the service center ADM of another educational service center, those students shall be removed from the service center ADM of the other educational service center and added to the service center ADM of the community school's sponsoring service center. The General Assembly authorizes this procedure as an incentive for educational service centers to take over sponsorship of community schools from the State Board of Education as the State Board's sponsorship is phased out in accordance with Sub. H.B. 364 of the 124th General Assembly. No student of an Internet- or computer-based community school shall be counted in the service center ADM of any educational service center. The Department shall pay educational service centers under division (F) of section 3317.11 of the Revised Code for community school students included in their service center ADMs under this division only if sufficient funds earmarked within appropriation item 200-501, Base Cost Funding, for payments under that division remain after first paying for students attributable to their local and client school districts, in accordance with divisions (B) and (D) of this section.

(D) If insufficient funds are earmarked within appropriation item

200-501, Base Cost Funding, for payments under division (F) of section 3317.11 of the Revised Code and division (C) of this section in fiscal year 2004 or fiscal year 2005, the Department shall prioritize the distribution of the earmarked funds as follows:

(1) The Department shall first distribute to each educational service center the per-student amount specified in division (F) of section 3317.11 of the Revised Code for each student in its service center ADM attributable to the local school districts within the service center's territory.

(2) The Department shall distribute the remaining funds in each fiscal year to each educational service center for the students in its service center ADM attributable to each city and exempted village school district that had entered into an agreement with an educational service center for that fiscal year under section 3313.843 of the Revised Code by January 1, 1997, up to the per-student amount specified in division (F) of section 3317.11 of the Revised Code. If insufficient funds remain to pay each service center the full amount specified in division (F) of that section for each such student, the Department shall distribute the remaining funds to each service center proportionally, on a per-student basis for each such student, unless that proportional per-student amount exceeds the amount specified in division (F)(1) of that section. In that case, the Department shall distribute the per-student amount specified in division (F)(1) of that section to each service center for each such student and shall distribute the remainder proportionally, on a per-student basis for each such student, to the multi-county service centers described in division (F)(2) of that section.

(3) If the Department has paid each service center under divisions (D)(1) and (2) of this section, the full amount specified in division (F) of section 3317.11 of the Revised Code for each student attributable to its local school districts and its client school districts described in division (D)(2) of this section the Department shall distribute any remaining funds proportionally, on a per-student basis, to each service center that sponsors a community school, other than an Internet- or computer-based community school, for the students included in the service center ADM under division (C) of this section. These payments shall not exceed per student the amount specified in division (F) of section 3317.11 of the Revised Code.

SECTION 41.26. * For the school year commencing July 1, 2003, or the school year commencing July 1, 2004, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the

following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

SECTION 41.27. PRIVATE TREATMENT FACILITY PILOT PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2004 or fiscal year 2005 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) Act One, in Akron;

(e) Friars Club, in Cincinnati.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the

educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2004 and fiscal year 2005 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2004 and fiscal year 2005 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2004 and 2005, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the formula amount specified in section 3317.022 of the Revised Code, except that the department shall proportionately reduce this reimbursement if sufficient funds are not available to pay this amount to all qualified providers.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The department shall monitor the programs for educational accountability.

SECTION 41.28. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

SECTION 41.29. Notwithstanding division (C)(1) of section 3313.975 of the Revised Code, in addition to students in kindergarten through third grade, initial scholarships may be awarded to fourth, fifth, sixth, seventh, and eighth grade students in fiscal year 2004 and in fiscal year 2005.

SECTION 41.30. STATEMENT OF STATE SHARE PERCENTAGE FOR BASE COST AND PARITY AID FUNDING

Pursuant to division (D)(3) of section 3317.012 of the Revised Code,

and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for the update year (fiscal year 2002) is 49.0%. This is the target percentage for fiscal year 2004 and fiscal year 2005 that the General Assembly shall use to fulfill its obligation under division (D)(4) of section 3317.012 of the Revised Code.

Pursuant to division (D)(4) of section 3317.012 of the Revised Code, and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for fiscal year 2004 is 48.5% and for fiscal year 2005 is 47.9%. This determination fulfills the General Assembly's obligation under that division for fiscal year 2004 and fiscal year 2005.

SECTION 41.31. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2004 and fiscal year 2005, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. S.B. 1 of the 124th General Assembly for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unspent and unencumbered appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment.

SECTION 41.32. (A) As used in this section:

(1) "IEP" has the same meaning as in section 3314.08 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior handicap conditions pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2004 and 2005 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any payments made under section 3314.08 of the Revised Code, in each of fiscal years 2004 and 2005 the Department of

Education shall pay to a community school a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from any moneys calculated under Chapter 3317. of the Revised Code for payment to a school district in which any of its students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

The amount of any subsidy paid to a community school under this section shall be paid from the amount appropriated to the Department of Education in appropriation item 200-501, Base Cost Funding.

SECTION 41.33. (A) As used in this section:

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.

(4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(5) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic;

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child;

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child;

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school

year in which a scholarship under this section is first sought for the child.

(6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.

(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2004 and 2005, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school or by another public entity, to either of which under law the parent is required to pay tuition on behalf of the child, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or fifteen thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of, or in addition to, the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be awarded to the parent of a child who attends a public special education program under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider or to the parent of a child who attends a community school established under Chapter 3314. of the Revised Code. A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) Notwithstanding anything to the contrary in the Revised Code, a child for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the

district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

(F) The Legislative Office of Education Oversight shall conduct a formative evaluation of the program established under this section and shall report its findings to the General Assembly not later than March 1, 2005. In conducting the evaluation, the Office shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for

inclusion in the report required under this section.

SECTION 41.34. (A) Not later than March 31, 2004, the department of education shall recommend to the general assembly, in consultation with stakeholders, plans for an Ohio Regional Education Delivery System to provide minimum core services and technical assistance to school districts. The recommendations shall address how the system should provide the state-funded core services currently provided by educational service centers, regional professional development centers, special education regional resource centers, area media centers, school improvement facilitators, Ohio SchoolNet regional services, data acquisition sites, educational technology centers, and other regional service providers. The department shall also recommend that the system provide minimum core services and technical assistance to chartered nonpublic schools to assist these schools in meeting Ohio's statutory and administrative code provisions applicable to such schools. However, the recommendations shall specify that in providing services to chartered nonpublic schools, the system is not required to create additional services or technical assistance beyond those provided to school districts.

(B)(1) The number of regional service centers recommended under the Ohio Regional Education Delivery System shall not exceed nineteen and shall be distributed geographically throughout the state.

(2) The plans shall recommend that each region established under the Ohio Regional Education Delivery System be served by a fiscal agent in the form of a regional educational service agency. Each service agency shall be selected by a majority vote of the school districts in the region based upon the agency's satisfactory audit record, demonstrated fiscal capacity, and demonstrated staff and resource capacity. The selection of each service agency shall be subject to final approval by the State Board of Education.

(C) The department, in consultation with stakeholders, shall recommend an accountability system for the Ohio Regional Education Delivery System or any part thereof as deemed necessary. The recommended accountability system shall include minimum standards for operation and the provision of minimum core services. It shall also include benchmarks against performance measures based on each of the following:

- (1) Student achievement;
- (2) The effectiveness and efficiency of service delivery;
- (3) The quality of implementation of state initiatives;
- (4) Satisfaction expressed by school districts and other entities that use the Ohio Regional Education Delivery System with the quality of the

system.

(D) The Department, in consultation with stakeholders, shall recommend rules regarding each of the following:

(1) Procedures for changing the boundaries of regions established under the system;

(2) Procedures for changing the configuration of the system;

(3) A requirement that each regional service center, prior to receiving state funds, submit to the Department an annual strategic plan and budget that is aligned with the state's strategic plan and demonstrates how the regional service center provides and coordinates services and technical assistance to client service providers, school districts, and school buildings;

(4) A governance structure for the system that includes a Regional Education Delivery Center Board and functional area advisory boards.

(E) The Department shall recommend a methodology to provide funding to the regional service centers, and all parts thereof, in order to support state education initiatives.

SECTION 41.35. (A) There is hereby created the Head Start Partnership Study Council consisting of the following twenty-two members:

(1) Four representatives appointed by the Director of Job and Family Services, two of whom are employees of the Department of Job and Family Services;

(2) Four representatives appointed by the Superintendent of Public Instruction, two of whom are employees of the Department of Education;

(3) Three members of the House of Representatives, not more than two of whom are members of the same political party, appointed by the Speaker of the House of Representatives;

(4) Three members of the Senate, not more two of whom are members of the same political party, appointed by the President of the Senate;

(5) Three representatives of Head Start agencies, two of whom are appointed by the Ohio Head Start Association, and one of whom is appointed by the Ohio Association of Community Action Agencies;

(6) Two representatives of child care providers appointed by the Ohio Association of Child Care Providers;

(7) One representative appointed by the Ohio Day Care Advisory Council;

(8) One representative appointed by the County Commissioner's Association of Ohio;

(9) One representative appointed by the Association of Directors of County Departments of Job and Family Services.

Initial appointments of members shall be made not later than September 1, 2003. Vacancies in any of those appointments shall be filled in the same manner as original appointments.

The Speaker of the House of Representatives and the President of the Senate jointly shall appoint the chairperson of the Council.

Members of the Council shall serve without compensation.

(B) In fiscal year 2004, the Council shall advise the Departments of Education and Job and Family Services in the design and implementation of the Title IV-A Head Start Plus Program as established under sections 3301.33 and 3301.35 of the Revised Code and shall report to the General Assembly on the plans for that program by December 31, 2003.

(C) In fiscal year 2005, the Council shall monitor the implementation of the Title IV-A Head Start Plus Program as established under sections 3301.33 and 3301.35 of the Revised Code and provide advice to the Departments of Education and Job and Family Services in that implementation.

(D) Unless reauthorized by the General Assembly, the Council shall cease to exist on July 1, 2005.

SECTION 41.36. (A) In the 2004-2005 and 2005-2006 school years, within three months after a student identified with disabilities begins receiving services for the first time under an individualized education program, as defined in section 3323.01 of the Revised Code, the school district in which that student is enrolled shall require the student to undergo a comprehensive eye examination performed either by an optometrist licensed under Chapter 4725. of the Revised Code or by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery who is comprehensively trained and educated in the treatment of the human eye, eye disease, or comprehensive vision services, unless the student underwent such an examination within the nine-month period immediately prior to being identified with disabilities.

However, no student who has not undergone the eye examination required under this section shall be prohibited from initiating, receiving, or continuing to receive services prescribed in the student's individualized education program.

(B) The superintendent of each school district or the superintendent's designee may determine fulfillment of the requirement prescribed in division (A) of this section based on any special circumstances of the student, the student's parent, guardian, or family that may prevent the

student from undergoing the eye examination prior to beginning special education services.

(C) Except for a student who may be entitled to a comprehensive eye examination in the identification of the student's disabilities, in the development of the student's individualized education program, or as a related service under the student's individualized education program, neither the state nor any school district shall be responsible for paying for the eye examination required by this section.

SECTION 41.37. TRANSITIONAL AID

The Department of Education shall distribute earmarked funds within appropriation item 200-501, Base Cost Funding, for transitional aid in each fiscal year to each city, local, and exempted village school district that experiences a decrease in its SF-3 funding plus charge-off supplement for the current fiscal year in excess of five per cent of its SF-3 funding plus charge-off supplement for the previous fiscal year. The Department shall distribute to each such district an amount to reduce the decrease to five per cent of the district's SF-3 funding plus charge-off supplement for the previous fiscal year. For this purpose, "SF-3 funding plus charge-off supplement" equals the sum of the following:

(A) Base cost funding under division (A) of section 3317.022 of the Revised Code;

(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;

(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;

(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;

(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;

(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;

(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;

(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;

(I) Equity aid under section 3317.0213 of the Revised Code;

(J) Transportation under division (D) of section 3317.022 of the Revised Code;

(K) The state aid guarantee under section 3317.0212 of the Revised Code;

(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;

(M) Parity aid under section 3317.0217 of the Revised Code;

(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;

(O) The charge-off supplement under section 3317.0216 of the Revised Code.

The SF-3 funding plus charge-off supplement for fiscal year 2003 for each district is the sum of those amounts less the general revenue fund spending reductions ordered by the Governor under Executive Order 2003-03T, March 5, 2003.

SECTION 41.38. By January 1, 2004, the Department of Education shall provide to the General Assembly a feasible standard for measuring school district attendance rates.

SECTION 41.39. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 42. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION

General Revenue Fund

GRF 374-100	Personal Services	\$	1,300,000	\$	1,300,000
GRF 374-200	Maintenance	\$	800,000	\$	800,000
GRF 374-300	Equipment	\$	97,500	\$	97,500
GRF 374-401	Statehouse News Bureau	\$	260,000	\$	260,000
GRF 374-402	Ohio Government	\$	762,146	\$	762,146

	Telecommunications Studio				
GRF 374-403	Ohio SONET	\$	2,000,000	\$	2,000,000
GRF 374-404	Telecommunications	\$	3,962,199	\$	3,864,269
	Operating Subsidy				
TOTAL GRF	General Revenue Fund	\$	9,181,845	\$	9,083,915
General Services Fund Group					
4F3 374-603	Affiliate Services	\$	3,067,447	\$	3,067,447
4T2 374-605	Government	\$	150,000	\$	150,000
	Television/Telecommunications				
	Operating				
TOTAL GSF	General Services				
Fund Group		\$	3,217,447	\$	3,217,447
TOTAL ALL BUDGET FUND GROUPS		\$	12,399,292	\$	12,301,362

STATEHOUSE NEWS BUREAU

The foregoing appropriation item 374-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO

The foregoing appropriation item 374-402, Ohio Government Telecommunications Studio, shall be used solely to support the operations of the Ohio Government Telecommunications Studio.

OHIO SONET

The foregoing appropriation item 374-403, Ohio SONET, shall be used by the Ohio Educational Telecommunications Network Commission to pay monthly operating expenses and maintenance of the television and radio transmission infrastructure.

TELECOMMUNICATIONS OPERATING SUBSIDY

Of the foregoing appropriation item 374-404, Telecommunications Operating Subsidy, \$45,000 in each fiscal year shall be used for a competitive grant for dial-up newspaper reading services for the blind and physically handicapped. The Ohio Educational Telecommunications Network shall not disburse these funds without prior approval of the Controlling Board.

The remainder of appropriation item 374-404, Telecommunications Operating Subsidy, shall be distributed by the Ohio Educational Telecommunications Network Commission to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation developed by the Ohio Educational Telecommunications Network Commission.

SECTION 43. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund

Am. Sub. H. B. No. 95

1954

GRF 051-321	Operating Expenses	\$	294,857	\$	294,857
TOTAL GRF General Revenue Fund		\$	294,857	\$	294,857
State Special Revenue Fund Group					
4P2 051-601	Ohio Elections				
	Commission Fund	\$	312,716	\$	321,766
TOTAL SSR State Special					
Revenue Fund Group		\$	312,716	\$	321,766
TOTAL ALL BUDGET FUND GROUPS		\$	607,573	\$	616,623

SECTION 44. FUN STATE BOARD OF EMBALMERS AND
FUNERAL DIRECTORS

General Services Fund Group

4K9 881-609	Operating Expenses	\$	563,639	\$	594,870
TOTAL GSF General Services					
Fund Group		\$	563,639	\$	594,870
TOTAL ALL BUDGET FUND GROUPS		\$	563,639	\$	594,870

SECTION 45. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund

GRF 125-321	Operating Expenses	\$	3,268,338	\$	3,268,338
TOTAL GRF General Revenue Fund		\$	3,268,338	\$	3,268,338
General Services Fund Group					
572 125-603	Training and Publications	\$	75,541	\$	75,541
TOTAL GSF General Services					
Fund Group		\$	75,541	\$	75,541
TOTAL ALL BUDGET FUND GROUPS		\$	3,343,879	\$	3,343,879

SECTION 46. ENG STATE BOARD OF ENGINEERS AND
SURVEYORS

General Services Fund Group

4K9 892-609	Operating Expenses	\$	999,150	\$	1,041,369
TOTAL GSF General Services					
Fund Group		\$	999,150	\$	1,041,369
TOTAL ALL BUDGET FUND GROUPS		\$	999,150	\$	1,041,369

SECTION 47. EPA ENVIRONMENTAL PROTECTION AGENCY

General Revenue Fund

GRF 715-403	Clean Ohio	\$	788,985	\$	788,985
GRF 715-501	Local Air Pollution Control	\$	1,119,878	\$	1,091,882
GRF 717-321	Surface Water	\$	9,333,376	\$	9,358,950
GRF 718-321	Groundwater	\$	1,195,001	\$	1,163,554
GRF 719-321	Air Pollution Control	\$	2,543,260	\$	2,543,260
GRF 721-321	Drinking Water	\$	2,713,032	\$	2,713,032
GRF 723-321	Hazardous Waste	\$	110,184	\$	107,284
GRF 724-321	Pollution Prevention	\$	765,137	\$	745,002

Am. Sub. H. B. No. 95

1955

GRF 725-321	Laboratory	\$	1,290,237	\$	1,293,971
GRF 726-321	Corrective Actions	\$	1,253,593	\$	1,255,080
TOTAL GRF	General Revenue Fund	\$	21,112,683	\$	21,061,000
General Services Fund Group					
199 715-602	Laboratory Services	\$	1,042,081	\$	1,045,654
219 715-604	Central Support Indirect	\$	15,239,297	\$	15,544,407
4A1 715-640	Operating Expenses	\$	3,308,758	\$	3,369,731
TOTAL GSF	General Services Fund Group	\$	19,590,136	\$	19,959,792
Federal Special Revenue Fund Group					
3F2 715-630	Revolving Loan Fund - Operating	\$	80,000	\$	80,000
3F3 715-632	Fed Supported Cleanup and Response	\$	2,792,648	\$	2,326,434
3F4 715-633	Water Quality Management	\$	737,850	\$	712,850
3F5 715-641	Nonpoint Source Pollution Management	\$	7,090,002	\$	7,155,000
3J1 715-620	Urban Stormwater	\$	850,000	\$	956,001
3K2 715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992
3K4 715-634	DOD Monitoring and Oversight	\$	1,462,173	\$	1,450,333
3K6 715-639	Remedial Action Plan	\$	416,000	\$	385,001
3N1 715-655	Pollution Prevention Grants	\$	10,172	\$	0
3N4 715-657	DOE Monitoring and Oversight	\$	3,362,932	\$	3,427,442
3V7 715-606	Agencywide Grants	\$	100,268	\$	0
352 715-611	Wastewater Pollution	\$	252,000	\$	265,002
353 715-612	Public Water Supply	\$	2,909,865	\$	2,916,174
354 715-614	Hazardous Waste Management - Federal	\$	4,195,192	\$	4,203,891
357 715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501
362 715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874
TOTAL FED	Federal Special Revenue Fund Group	\$	33,934,302	\$	33,705,495
State Special Revenue Fund Group					
3T3 715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777
4J0 715-638	Underground Injection Control	\$	379,488	\$	394,385
4K2 715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002
4K3 715-649	Solid Waste	\$	14,286,500	\$	14,698,987
4K4 715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181
4K5 715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946
4P5 715-654	Cozart Landfill	\$	146,792	\$	149,728
4R5 715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000
4R9 715-658	Voluntary Action Program	\$	603,435	\$	795,671
4T3 715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001
4U7 715-660	Construction & Demolition Debris	\$	220,000	\$	220,000
5H4 715-664	Groundwater Support	\$	1,768,661	\$	1,797,036
5N2 715-613	Dredge and Fill	\$	30,000	\$	30,000

Am. Sub. H. B. No. 95

1956

5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000
503	715-621	Hazardous Waste Facility Management	\$	11,051,591	\$	11,465,671
503	715-662	Hazardous Waste Facility Board	\$	566,350	\$	576,619
505	715-623	Hazardous Waste Cleanup	\$	10,862,544	\$	11,557,987
505	715-674	Clean Ohio Environmental Review	\$	999,896	\$	1,179,249
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075
542	715-671	Risk Management Reporting	\$	142,087	\$	146,188
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,444,464	\$	1,437,398
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114
660	715-629	Infectious Waste Management	\$	160,000	\$	160,000
676	715-642	Water Pollution Control Loan Administration	\$	4,858,798	\$	4,964,625
678	715-635	Air Toxic Release	\$	314,081	\$	210,662
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647
696	715-643	Air Pollution Control Administration	\$	750,002	\$	750,000
699	715-644	Water Pollution Control Administration	\$	625,000	\$	625,000
TOTAL SSR State Special Revenue Fund Group			\$	99,964,418	\$	102,182,123
TOTAL ALL BUDGET FUND GROUPS			\$	174,601,539	\$	176,908,410

CENTRAL SUPPORT INDIRECT

Notwithstanding any other provision of law to the contrary, the Director of Environmental Protection, with the approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 219). The methodology used shall contain the characteristics of administrative ease and uniform application. Payments to the Central Support Indirect Fund (Fund 219) shall be made using an intrastate transfer voucher.

CLEAN OHIO - OPERATING

The foregoing appropriation item 715-607, Clean Ohio - Operating, shall be used by the Ohio Environmental Protection Agency in administering sections 122.65 to 122.658 of the Revised Code.

SECTION 48. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION

General Revenue Fund

GRF 172-321	Operating Expenses	\$	437,131	\$	439,109
TOTAL GRF General Revenue Fund		\$	437,131	\$	439,109
TOTAL ALL BUDGET FUND GROUPS		\$	437,131	\$	439,109

SECTION 49. ETH OHIO ETHICS COMMISSION

General Revenue Fund

GRF 146-321	Operating Expenses	\$	1,286,869	\$	1,351,213
TOTAL GRF General Revenue Fund		\$	1,286,869	\$	1,351,213

General Services Fund Group

4M6 146-601	Operating Expenses	\$	409,543	\$	383,543
TOTAL GSF General Services Fund Group		\$	409,543	\$	383,543
TOTAL ALL BUDGET FUND GROUPS		\$	1,696,412	\$	1,734,756

SECTION 50. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF 723-403	Junior Fair Subsidy	\$	465,412	\$	465,412
TOTAL GRF General Revenue Fund		\$	465,412	\$	465,412

State Special Revenue Fund Group

4N2 723-602	Ohio State Fair Harness Racing	\$	520,000	\$	520,000

506 723-601	Operating Expenses	\$	13,211,481	\$	13,643,315
640 723-603	State Fair Reserve	\$	125,000	\$	0
TOTAL SSR State Special Revenue Fund Group		\$	13,856,481	\$	14,163,315
TOTAL ALL BUDGET FUND GROUPS		\$	14,321,893	\$	14,628,727

STATE FAIR RESERVE

The foregoing appropriation item 723-603, State Fair Reserve, shall serve as a budget reserve fund for the Ohio Expositions Commission in the event of a significant decline in attendance due to inclement weather or extraordinary circumstances during the Ohio State Fair resulting in a loss of revenue. The State Fair Reserve may be used by the Ohio Expositions Commission to pay bills resulting from the Ohio State Fair only if all the following criteria are met:

(A) Admission revenues for the 2003 Ohio State Fair are less than \$2,542,500 or admission revenues for the 2004 Ohio State Fair are less than \$2,619,000 due to inclement weather or extraordinary circumstances. These amounts are ninety per cent of the projected admission revenues for each year.

(B) The Ohio Expositions Commission declares a state of fiscal exigency and requests release of funds by the Director of Budget and Management.

(C) The Director of Budget and Management releases the funds. The Director of Budget and Management may approve or disapprove the request for release of funds, may increase or decrease the amount of release, and may place such conditions as the director considers necessary on the use of

the released funds. The Director of Budget and Management may transfer appropriation authority from fiscal year 2004 to fiscal year 2005 as needed.

In the event that the Ohio Expositions Commission faces a temporary cash shortage that will preclude it from meeting current obligations, the Commission may request the Director of Budget and Management to approve use of the State Fair Reserve to meet those obligations. The request shall include a plan describing how the Commission will eliminate the cash shortage. If the Director of Budget and Management approves the expenditures, the Commission shall reimburse Fund 640 by the thirtieth day of June of that same fiscal year through an intrastate transfer voucher. The amount reimbursed is hereby appropriated.

Of the foregoing appropriation item 723-603, State Fair Reserve, up to \$125,000 shall be transferred in fiscal year 2004 to appropriation item 723-403, Junior Fair Subsidy.

SECTION 51. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF 040-321	Operating Expenses	\$	4,112,358	\$	4,235,726
GRF 040-403	Federal Relations	\$	510,000	\$	510,000
GRF 040-408	Office of Veterans' Affairs	\$	276,723	\$	285,025
TOTAL GRF General Revenue Fund		\$	4,899,081	\$	5,030,751

General Services Fund Group

412 040-607	Federal Relations	\$	500,000	\$	500,000
TOTAL GSF General Services Fund Group		\$	500,000	\$	500,000
TOTAL ALL BUDGET FUND GROUPS		\$	5,399,081	\$	5,530,751

APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR

The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.

FEDERAL RELATIONS

A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 412).

SECTION 52. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF 440-407	Animal Borne Disease and Prevention	\$	2,690,101	\$	2,690,101
GRF 440-412	Cancer Incidence Surveillance System	\$	1,038,815	\$	1,066,616
GRF 440-413	Healthy Communities	\$	4,139,009	\$	4,139,009
GRF 440-416	Child and Family Health Services	\$	9,034,972	\$	9,034,972
GRF 440-418	Immunizations	\$	8,431,975	\$	8,600,615
GRF 440-419	Sexual Assault Prevention	\$	35,899	\$	35,899
GRF 440-444	AIDS Prevention and Treatment	\$	7,589,816	\$	7,589,816
GRF 440-446	Infectious Disease Prevention	\$	439,330	\$	439,330
GRF 440-451	Lab and Public Health Prevention Programs	\$	6,085,250	\$	6,085,250
GRF 440-452	Child and Family Health Services Match	\$	1,024,017	\$	1,024,017
GRF 440-453	Health Care Quality Assurance	\$	10,453,728	\$	10,453,728
GRF 440-454	Local Environmental Health	\$	1,047,654	\$	1,047,654
GRF 440-459	Help Me Grow	\$	9,861,089	\$	9,861,089
GRF 440-461	Center for Vital and Health Stats	\$	4,079,790	\$	4,079,790
GRF 440-504	Poison Control Network	\$	388,000	\$	388,000
GRF 440-505	Medically Handicapped Children	\$	6,462,257	\$	6,462,738
GRF 440-507	Targeted Health Care Services Over 21	\$	731,023	\$	731,023
GRF 440-508	Migrant Health	\$	91,301	\$	91,301
TOTAL GRF General Revenue Fund		\$	73,624,026	\$	73,820,948

General Services Fund Group

142 440-618	General Operations - General Services Fund	\$	3,372,444	\$	3,461,915
211 440-613	Central Support Indirect Costs	\$	26,578,343	\$	26,584,707
473 440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045
683 440-633	Employee Assistance Program	\$	1,192,234	\$	1,192,214
698 440-634	Nurse Aide Training	\$	170,000	\$	170,000
TOTAL GSF General Services Fund Group		\$	35,467,066	\$	35,562,881

Federal Special Revenue Fund Group

320 440-601	Maternal Child Health Block Grant	\$	34,451,205	\$	35,136,169
387 440-602	Preventive Health Block Grant	\$	8,200,000	\$	8,200,000
389 440-604	Women, Infants, and Children	\$	210,000,000	\$	220,000,000
391 440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159
392 440-618	General Operations - Federal Fund	\$	114,474,764	\$	115,319,323

TOTAL FED Federal Special Revenue

Am. Sub. H. B. No. 95

1960

Fund Group		\$	393,420,243	\$	405,475,651
State Special Revenue Fund Group					
4D6 440-608	Genetics Services	\$	2,300,000	\$	2,300,000
4F9 440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344
4G0 440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000
4G0 440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000
4L3 440-609	Miscellaneous Expenses	\$	256,082	\$	144,119
4T4 440-603	Child Highway Safety	\$	233,894	\$	233,894
4V6 440-641	Save Our Sight	\$	1,733,327	\$	1,767,994
470 440-618	General Operations - State Special Revenue	\$	14,525,443	\$	16,025,194
471 440-619	Certificate of Need	\$	475,000	\$	483,572
477 440-627	Medically Handicapped Children Audit	\$	4,640,498	\$	4,733,008
5B5 440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479
5C0 440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405
5D6 440-620	Second Chance Trust	\$	887,018	\$	825,951
5G4 440-639	Adoption Services	\$	20,000	\$	20,000
5E1 440-624	Health Services	\$	688,321	\$	0
5L1 440-623	Nursing Facility Technical Assistance Program	\$	586,153	\$	617,517
610 440-626	Radiation Emergency Response	\$	923,315	\$	923,315
666 440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687
TOTAL SSR State Special Revenue					
Fund Group		\$	44,928,966	\$	45,734,479
Holding Account Redistribution Fund Group					
R14 440-631	Vital Statistics	\$	70,000	\$	70,000
R48 440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,400	\$	20,400
TOTAL 090 Holding Account					
Redistribution Fund Group		\$	90,400	\$	90,400
TOTAL ALL BUDGET FUND GROUPS					
		\$	547,530,701	\$	560,684,359

SECTION 52.01. CANCER REGISTRY SYSTEM

Of the foregoing appropriation item 440-412, Cancer Incidence Surveillance System, not more than \$50,000 in each fiscal year shall be provided to Health Comp, Inc.

The remaining moneys in appropriation item 440-412, Cancer Incidence Surveillance System, shall be used to maintain and operate the Ohio Cancer Incidence Surveillance System pursuant to sections 3701.261 to 3701.263 of the Revised Code.

SECTION 52.02. CHILD AND FAMILY HEALTH SERVICES

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$1,700,000 in each fiscal year shall be used for women's health services.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$30,000 in each fiscal year shall be allocated to the Jewish Family Service of Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Service of Cincinnati, and \$10,000 in each fiscal year shall be allocated to the Jewish Family Services of Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to Clermont County's Comprehensive Community Suicide Prevention Program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Health Education Center in Cincinnati.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$62,500 in each fiscal year shall be allocated to the Cincinnati YWCA Hippy.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Helping Hearts Program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Tree of Knowledge Learning Center.

Of the foregoing appropriation item 440-416, Child and Family Health

Services, \$50,000 in each fiscal year shall be allocated to the Mayerson Foundation.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$50,000 in each fiscal year shall be allocated to the Columbus Yassenoff Jewish Community Center to fund nutrition and exercise education for children ages eight to thirteen.

SECTION 52.03. WOMEN'S HEALTH SERVICES UNTIL JANUARY 1, 2004

None of the funds received for women's health services through a family planning grant from the foregoing appropriation item 440-416, Child and Family Health Services, shall be used to provide abortion services. None of the funds received through these family planning grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed on the basis of the relative need in the community served by the Director of Health to family planning programs, which shall include family planning programs funded under Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and Title X of the "Public Health Services Act," 58 Stat. 682 (1946), 42 U.S.C. 201, as amended, as well as to other family planning programs that the Department of Health also determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency, with state moneys, but that otherwise substantially comply with the quality standards for such programs under Title V and Title X.

The Director of Health, by rule, shall provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding, while ensuring that a family planning program receiving a family planning grant must be organized so that it is physically and financially separate from the provision of abortion services and from activities promoting abortion as a method of family planning.

This section expires January 1, 2004.

SECTION 52.04. WOMEN'S SERVICES STARTING JANUARY 1, 2004

None of the funds received through grants for women's health services under this section from the foregoing appropriation item 440-416, Child and

Family Health Services, shall be used to provide abortion services. None of the funds received through these grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed by the Director of Health to programs that the Department of Health determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency.

These women's health services include and are limited to the following: pelvic exams and lab testing; breast exams and patient education on breast cancer; screening for cervical cancer; screening and treatment for Sexually Transmitted Diseases (STDs) and HIV screening; voluntary choice of contraception, including abstinence and natural family planning; patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy; education on sexual coercion and violence in relationships; and prenatal care or referral for prenatal care. These health care services shall be provided by licensed doctors, licensed nurses, licensed medical assistants, licensed counselors, and licensed social workers in a medical clinic setting.

The Director of Health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying reasonable eligibility standards that must be met to receive the state funding and provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Each applicant for these funds shall provide sufficient assurance to the Director of Health of all of the following:

(A) The program shall not discriminate in the provision of services based on an individual's religion, race, national origin, handicapping condition, age, sex, number of pregnancies, or marital status;

(B) The program shall provide services without subjecting individuals to any coercion to accept services or to employ any particular methods of family planning;

(C) Acceptance of services shall be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from, or participation in, any other program of the service provider;

(D) The costs for services provided by the program, if any are charged, shall be based on the patient's ability to pay and priority in the provision of services shall be given to persons from low-income families.

In distributing these grant funds, the Director of Health shall give priority to grant requests from local departments of health for women's health services to be provided directly by personnel of the local department of health. Prior to the effective date of this section, the Director of Health shall issue a single request for proposals for all grants under this set-aside. The Director of Health shall send a notification of this request for proposals to every local department of health in this state and shall place a notification on the department's web site. The Director shall allow at least 30 days after issuing this notification before closing the period to receive applications.

After the closing date for receiving grant applications, the Director of Health shall first consider grant applications from local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health. Local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among local departments of health that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no local department of health shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

This section takes effect January 1, 2004.

SECTION 52.05. SEXUAL ASSAULT PREVENTION AND INTERVENTION

The foregoing appropriation item 440-419, Sexual Assault Prevention and Intervention, shall be used for the following purposes:

- (A) Funding of new services in counties with no services for sexual assault;
- (B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;
- (C) Start-up funding for Sexual Assault Nurse Examiner (SANE)

projects;

(D) Statewide expansion of local outreach and public awareness efforts.

HIV/AIDS PREVENTION/TREATMENT

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, up to \$6.4 million in fiscal year 2004 and up to \$6.7 million in fiscal year 2005 shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

INFECTIOUS DISEASE PREVENTION

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$200,000 in each fiscal year shall be used to reimburse boards of county commissioners pursuant to division (A) of section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$60,000 shall be used by the Director of Health to reimburse Boards of County Commissioners for the cost of detaining indigent persons with tuberculosis. Any portion of the \$60,000 allocated for detainment not used for that purpose shall be used to make payments to counties pursuant to section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$250,000 in each fiscal year shall be used for the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow program. Appropriation item 440-459 may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children. Local contracts shall be developed between local departments of job and family services and family and children first councils for the administration of TANF funding for the Help Me Grow Program. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Mental Retardation and Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.

POISON CONTROL NETWORK

The foregoing appropriation item 440-504, Poison Control Network, shall be used in each fiscal year by the Department of Health for grants to

the consolidated Ohio Poison Control Center to provide poison control services to Ohio citizens.

Notwithstanding section 3701.83 of the Revised Code, not later than the fifteenth day of July of each fiscal year or as soon as possible thereafter, the Director of Budget and Management shall transfer cash in the amount of \$127,287 from appropriation item 440-618, General Operations – General Services Fund, (Fund 142) to the General Revenue Fund.

TARGETED HEALTH CARE SERVICES OVER 21

In each fiscal year, appropriation item 440-507, Targeted Health Care Services Over 21, shall be used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment program.

EXTENSION OF HEMOPHILIA HEALTH INSURANCE PREMIUM PAYMENTS

The Director of Health shall continue to provide, through contracts with or grants to hemophilia treatment centers, for health insurance premiums to be paid for individuals who are at least twenty-one years of age, diagnosed with hemophilia or a related bleeding disorder, and receive such assistance on the day prior to the effective date of this section under the program for care and treatment of persons suffering from hemophilia established under former section 3701.144 of the Revised Code until the effective date of the initial rules adopted under division (A)(12) of section 3701.021 of the Revised Code for the hemophilia program established under section 3701.029 of the Revised Code. The Public Health Council shall adopt those rules not later than twelve months after the effective date of this section.

MATERNAL CHILD HEALTH BLOCK GRANT

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. Such guidelines shall be pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

GENETICS SERVICES

The foregoing appropriation item 440-608, Genetics Services (Fund 4D6), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

SAFETY AND QUALITY OF CARE STANDARDS

The Department of Health may use Fund 471, Certificate of Need, for administering sections 3702.11 to 3702.20 and 3702.30 of the Revised Code in each fiscal year.

MEDICALLY HANDICAPPED CHILDREN AUDIT

The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND

The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.

The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) established in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS

The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments pursuant to division (E) of section 3701.023 of the Revised Code.

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM

The Director of Budget and Management shall transfer, by intrastate transfer voucher, each fiscal year, cash from Fund 4E3, Resident Protection Fund, in the Ohio Department of Job and Family Services, to Fund 5L1, Nursing Facility Technical Assistance Fund, in the Ohio Department of Health, to be used in accordance with section 3721.026 of the Revised Code. The transfers shall equal the amount appropriated per fiscal year in Fund

5L1, Nursing Facility Technical Assistance Fund.

SECTION 53. HEF HIGHER EDUCATIONAL FACILITY COMMISSION

Agency Fund Group

461 372-601	Operating Expenses	\$	15,290	\$	16,819
TOTAL AGY Agency Fund Group		\$	15,290	\$	16,819
TOTAL ALL BUDGET FUND GROUPS		\$	15,290	\$	16,819

SECTION 54. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund

GRF 148-100	Personal Services	\$	127,419	\$	127,419
GRF 148-200	Maintenance	\$	35,901	\$	35,901
TOTAL GRF General Revenue Fund		\$	163,320	\$	163,320

General Services Fund Group

601 148-602	Gifts and Miscellaneous	\$	8,485	\$	8,485
TOTAL GSF General Services Fund Group		\$	8,485	\$	8,485
TOTAL ALL BUDGET FUND GROUPS		\$	171,805	\$	171,805

SECTION 55. OHS OHIO HISTORICAL SOCIETY

General Revenue Fund

GRF 360-403	Adena - Worthington Home	\$	200,000	\$	150,000
GRF 360-501	Operating Subsidy	\$	3,389,973	\$	3,389,973
GRF 360-502	Site Operations	\$	8,240,438	\$	8,240,438
GRF 360-503	Ohio Bicentennial Commission	\$	1,847,239	\$	58,164
GRF 360-504	Ohio Preservation Office	\$	289,733	\$	289,733
GRF 360-505	Afro-American Museum	\$	778,231	\$	778,231
GRF 360-506	Hayes Presidential Center	\$	524,981	\$	524,981
GRF 360-508	Historical Grants	\$	2,200,000	\$	1,550,000
TOTAL GRF General Revenue Fund		\$	17,470,595	\$	14,981,520
TOTAL ALL BUDGET FUND GROUPS		\$	17,470,595	\$	14,981,520

SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal years 2004 and 2005 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

- (A) An estimated operating budget for each fiscal year of the biennium.

The operating budget shall be submitted at or near the beginning of each year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code. If the Ohio Historical Society accepts this contractual offer, the society may not, during fiscal year 2004 or 2005, close any of the sites operated by the society as of the effective date of this section.

Not later than May 15, 2004, the Ohio Historical Society shall submit to the Controlling Board a plan for the implementation of the recommendations of the Select Committee to Study the Effectiveness of Ohio's Historical Programs and Partnerships. No appropriations to the society for fiscal year 2005 may be expended without prior approval of the implementation plan by the Controlling Board.

HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not limited to, the National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.

HISTORICAL GRANTS

Of the foregoing appropriation item 360-508, Historical Grants, \$91,667 in fiscal year 2004 and \$88,571 in fiscal year 2005 shall be distributed to the Hebrew Union College in Cincinnati for the Center for Holocaust and Humanity Education, \$137,500 in fiscal year 2004 shall be distributed to the National Underground Railroad Freedom Center in Cincinnati, \$229,167 in fiscal year 2004 and \$221,430 in fiscal year 2005 shall be distributed to the Great Lakes Historical Society in Vermilion, \$733,333 in fiscal year 2004 and \$708,571 in fiscal year 2005 shall be distributed to the Western Reserve Historical Society in Cleveland, \$458,333 in fiscal year 2004 shall be distributed to the Village of Dennison for the Historical Center Street District, \$91,667 in fiscal year 2004 and \$88,571 in fiscal year 2005 shall be distributed to the Harbor Heritage Society Steamship Mather in Cleveland, and \$458,333 in fiscal year 2004 and \$442,857 in fiscal year 2005 shall be distributed to the Cincinnati Museum Center.

OHIO BICENTENNIAL COMMISSION ROYALTIES

Notwithstanding any previous arrangement to the contrary, the Ohio Bicentennial Commission shall keep the first \$100,000 in earned royalties associated with the Ohio Bicentennial logo during the 2004-2005 biennium. This \$100,000 shall be used to cover the operating expenses of the Ohio Bicentennial Commission in fiscal year 2005. The remaining moneys collected from royalties associated with the Ohio Bicentennial logo shall be deposited into the General Revenue Fund, of which \$350,000 shall be distributed to the Ohio Historical Society for use in appropriation item 360-403, Adena - Worthington Home.

SECTION 56. REP OHIO HOUSE OF REPRESENTATIVES

General Revenue Fund

GRF 025-321	Operating Expenses	\$	19,018,547	\$	19,969,473
TOTAL GRF General Revenue Fund		\$	19,018,547	\$	19,969,473

General Services Fund Group

103 025-601	House Reimbursement	\$	1,351,875	\$	1,419,469
4A4 025-602	Miscellaneous Sales	\$	35,690	\$	37,474
TOTAL GSF General Services Fund Group		\$	1,387,565	\$	1,456,943
TOTAL ALL BUDGET FUND GROUPS		\$	20,406,112	\$	21,426,416

SECTION 57. IGO OFFICE OF THE INSPECTOR GENERAL

General Revenue Fund

GRF 965-321	Operating Expenses	\$	812,000	\$	812,000
TOTAL GRF General Revenue Fund		\$	812,000	\$	812,000

State Special Revenue Fund Group

4Z3 965-602	Special Investigations	\$	100,000	\$	100,000
TOTAL SSR State Special Revenue Fund Group		\$	100,000	\$	100,000

TOTAL ALL BUDGET FUND GROUPS		\$	912,000	\$	912,000

SPECIAL INVESTIGATIONS

Of the foregoing appropriation item 965-602, Special Investigations, up to \$100,000 in each fiscal year may be used for investigative costs, pursuant to section 121.481 of the Revised Code.

SECTION 58. INS DEPARTMENT OF INSURANCE

Federal Special Revenue Fund Group

3U5 820-602	OSHIIP Operating Grant	\$	560,559	\$	560,559
TOTAL FED Federal Special Revenue Fund Group		\$	560,559	\$	560,559

State Special Revenue Fund Group

554 820-601	Operating Expenses - OSHIIP	\$	506,515	\$	561,411
554 820-606	Operating Expenses	\$	21,815,431	\$	22,357,575

555 820-605 Examination	\$	7,433,751	\$	7,639,581
TOTAL SSR State Special Revenue				
Fund Group	\$	29,755,697	\$	30,558,567
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$	31,119,126

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or regulations administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 554).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Superintendent of Insurance may transfer funds from the Department of Insurance Operating Fund (Fund 554), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 555), established by section 3901.071 of the Revised Code, only for the expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

On July 1, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$1,000,000 from the Department of Insurance Operating Fund (Fund 554) to the General Revenue Fund.

SECTION 59. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

GRF 600-321	Support Services			
	State	\$	62,361,047	\$ 58,611,047
	Federal	\$	7,176,249	\$ 7,125,883
	Support Services Total	\$	69,537,296	\$ 65,736,930
GRF 600-410	TANF State	\$	272,619,061	\$ 272,619,061
GRF 600-413	Child Care Match/Maintenance of Effort	\$	84,120,596	\$ 84,120,596
GRF 600-416	Computer Projects			
	State	\$	120,000,000	\$ 120,000,000
	Federal	\$	31,095,442	\$ 31,400,454
	Computer Projects Total	\$	151,095,442	\$ 151,400,454
GRF 600-420	Child Support Administration	\$	5,091,446	\$ 5,091,446
GRF 600-421	Office of Family Stability	\$	4,864,932	\$ 4,864,932
GRF 600-422	Local Operations	\$	2,305,232	\$ 2,305,232
GRF 600-423	Office of Children and Families	\$	5,000,000	\$ 5,000,000
GRF 600-424	Office of Workforce Development	\$	877,971	\$ 877,971

Am. Sub. H. B. No. 95

1972

GRF 600-425	Office of Ohio Health Plans				
	State	\$	21,944,901	\$	22,603,740
	Federal	\$	21,848,555	\$	22,495,502
	Office of Ohio Health Plans	\$	43,793,456	\$	45,099,242
	Total				
GRF 600-435	Unemployment Compensation	\$	3,188,473	\$	3,188,473
	Review Commission				
GRF 600-439	Commission to Reform	\$	125,000	\$	125,000
	Medicaid				
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371
GRF 600-521	Family Stability Subsidy	\$	55,206,401	\$	55,206,401
GRF 600-523	Children and Families Subsidy	\$	69,846,563	\$	69,846,563
GRF 600-525	Health Care/Medicaid				
	State	\$	3,651,294,321	\$	3,842,465,911
	Federal	\$	5,188,691,539	\$	5,463,149,039
	Health Care Total	\$	8,839,985,860	\$	9,305,614,950
GRF 600-528	Adoption Services				
	State	\$	33,395,955	\$	36,017,981
	Federal	\$	37,368,248	\$	41,115,000
	Adoption Services Total	\$	70,764,203	\$	77,132,981
TOTAL GRF	General Revenue Fund				
	State	\$	4,428,706,900	\$	4,619,409,355
	Federal	\$	5,286,180,033	\$	5,565,285,878
	GRF Total	\$	9,718,075,406	\$	10,187,883,706
General Services Fund Group					
4A8 600-658	Child Support Collections	\$	27,255,646	\$	26,680,794
4R4 600-665	BCII Services/Fees	\$	136,974	\$	136,974
5C9 600-671	Medicaid Program Support	\$	54,686,270	\$	55,137,078
5N1 600-677	County Technologies	\$	5,000,000	\$	5,000,000
613 600-645	Training Activities	\$	135,000	\$	135,000
TOTAL GSF	General Services				
Fund Group		\$	87,213,890	\$	87,089,846
Federal Special Revenue Fund Group					
3A2 600-641	Emergency Food Distribution	\$	2,083,500	\$	2,187,675
3D3 600-648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524
3F0 600-623	Health Care Federal	\$	391,658,105	\$	394,221,409
3F0 600-650	Hospital Care Assurance	\$	298,128,308	\$	305,879,644
	Match				
3G5 600-655	Interagency Reimbursement	\$	1,180,523,642	\$	1,245,244,536
3H7 600-617	Child Care Federal	\$	224,539,425	\$	235,045,596
3N0 600-628	IV-E Foster Care Maintenance	\$	173,963,142	\$	173,963,142
3S5 600-622	Child Support Projects	\$	534,050	\$	534,050
3V0 600-662	WIA Ohio Option #7	\$	87,407,014	\$	89,352,850
3V0 600-688	Workforce Investment Act	\$	93,636,390	\$	94,932,750
3V4 600-678	Federal Unemployment	\$	153,690,682	\$	154,111,608
	Programs				
3V4 600-679	Unemployment Compensation	\$	3,097,320	\$	2,860,297
	Review Commission - Federal				
3V6 600-689	TANF Block Grant	\$	786,095,609	\$	845,909,688
3W3 600-659	TANF/Title XX	\$	88,994,049	\$	93,498,158
316 600-602	State and Local Training	\$	11,212,594	\$	11,249,282
327 600-606	Child Welfare	\$	29,119,408	\$	28,665,728

Am. Sub. H. B. No. 95

1973

331	600-686	Federal Operating	\$	48,237,185	\$	47,340,081
365	600-681	JOB Training Program	\$	5,000,000	\$	0
384	600-610	Food Stamps and State Administration	\$	134,560,572	\$	135,141,694
385	600-614	Refugee Services	\$	5,793,656	\$	5,841,407
395	600-616	Special Activities/Child and Family Services	\$	3,975,821	\$	3,975,821
396	600-620	Social Services Block Grant	\$	74,969,767	\$	74,986,134
397	600-626	Child Support	\$	304,157,939	\$	307,468,576
398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370
TOTAL FED Federal Special Revenue Fund Group			\$	4,443,376,680	\$	4,594,555,020
State Special Revenue Fund Group						
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310
4J5	600-613	Nursing Facility Bed Assessments	\$	35,060,013	\$	35,064,238
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726
4R3	600-687	Banking Fees	\$	892,000	\$	892,000
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000
5A5	600-685	Unemployment Benefit Automation	\$	14,000,000	\$	0
5P5	600-692	Health Care Services	\$	492,932,514	\$	515,947,439
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	30,797,539	\$	30,797,539
5R2	600-608	Medicaid-Nursing Facilities	\$	113,754,184	\$	113,754,184
5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960
5T2	600-652	Child Support Special Payment	\$	1,500,000	\$	750,000
5U3	600-654	Health Care Services Administration	\$	7,576,322	\$	6,119,127
5U6	600-663	Children and Family Support	\$	4,929,718	\$	4,929,718
651	600-649	Hospital Care Assurance Program Fund	\$	208,634,072	\$	214,058,558
TOTAL SSR State Special Revenue Fund Group			\$	975,380,704	\$	987,578,822
Agency Fund Group						
192	600-646	Support Intercept - Federal	\$	136,500,000	\$	136,500,000
5B6	600-601	Food Stamp Intercept	\$	5,000,000	\$	5,000,000
583	600-642	Support Intercept - State	\$	20,565,582	\$	20,565,582
TOTAL AGY Agency Fund Group			\$	162,065,582	\$	162,065,582
Holding Account Redistribution Fund Group						
R12	600-643	Refunds and Audit	\$	5,343,906	\$	5,343,906

	Settlements				
R13 600-644	Forgery Collections		700,000		700,000
TOTAL 090 Holding Account Redistribution		\$	6,043,906	\$	6,043,906
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	15,392,156,168	\$	16,025,216,882

SECTION 59.01. OHIO COMMISSION TO REFORM MEDICAID

The foregoing appropriation item 600-439, Commission to Reform Medicaid, shall be used to fund the Ohio Commission to Reform Medicaid.

HEALTH CARE/MEDICAID

The foregoing appropriation item 600-525, Health Care/Medicaid, shall not be limited by the provisions of section 131.33 of the Revised Code.

SECTION 59.02. CHILD SUPPORT COLLECTIONS/TANF MOE

The foregoing appropriation item 600-658, Child Support Collections, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of Pub. L. No. 104-193. After the state has met the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600-658 to support public assistance activities.

SECTION 59.03. MEDICAID PROGRAM SUPPORT FUND - STATE

The foregoing appropriation item 600-671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to Fund 5C9 revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies.

SECTION 59.04. HEALTH CARE SERVICES ADMINISTRATION

The foregoing appropriation item 600-654, Health Care Services Administration, shall be used by the Department of Job and Family Services for costs associated with the administration of the Medicaid program.

SECTION 59.05. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Job and Family Services during fiscal year 2004 and fiscal year 2005 from the first installment of

assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

HOSPITAL CARE ASSURANCE MATCH FUND

Appropriation item 600-650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services in accordance with division (B) of section 5112.18 of the Revised Code.

SECTION 59.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may seek Controlling Board approval to increase appropriations in appropriation item 600-689, TANF Block Grant, provided sufficient funds exist to do so without any corresponding decrease in other appropriation items. The Department of Job and Family Services shall provide the Director of Budget and Management and the Controlling Board with documentation to support the need for the increased appropriation.

All transfers of moneys from or charges against TANF Federal Block Grant awards for use in the Social Services Block Grant or the Child Care and Development Block Grant shall be done after the Department of Job and Family Services gives written notice to the Director of Budget and Management. The Department of Job and Family Services shall first provide the Director of Budget and Management with documentation to support the need for such transfers or charges for use in the Social Services Block Grant or in the Child Care and Development Block Grant.

Before the thirtieth day of September of each fiscal year, the Department of Job and Family Services shall file claims with the United States Department of Health and Human Services for reimbursement for all allowable expenditures for services provided by the Department of Job and Family Services, or other agencies that may qualify for Social Services Block Grant funding pursuant to Title XX of the Social Security Act.

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance remaining in Fund 3G0, Jobs Administration, to Fund 3V6, TANF Block Grant. Fund 3G0 shall be abolished once this transfer has been completed.

SECTION 59.07a. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

Of the foregoing appropriation item 600-659, TANF/Title XX, \$625,000 in the fiscal year 2004-2005 biennium shall be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.

OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by the Department of Job and Family Services to support expenditures to the Ohio Association of Second Harvest Food Banks according to the following criteria.

As used in this section, "federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

The Department of Job and Family Services shall provide an annual grant of \$4,500,000 in each of the fiscal years 2004 and 2005 to the Ohio Association of Second Harvest Food Banks. In each fiscal year, the Ohio Association of Second Harvest Food Banks shall use \$2,500,000 for the purchase of food products for the Ohio Food Program, of which up to \$105,000 may be used for food storage and transport, and shall use \$2,000,000 for the Agricultural Surplus Production Alliance Project. Funds provided for the Ohio Food Program shall be used to purchase food products and to distribute those food products to agencies participating in the emergency food distribution program. No funds provided through this grant may be used for administrative expenses other than funds provided for food storage and transport. As soon as possible after entering into a grant agreement at the beginning of each fiscal year, the Department of Job and Family Services shall distribute the grant funds in one single payment. The Ohio Association of Second Harvest Food Banks shall develop a plan for the distribution of the food products to local food distribution agencies. Agencies receiving these food products shall ensure that individuals and families who receive any of the food products purchased with these funds have an income at or below 150 per cent of the federal poverty guidelines. The Department of Job and Family Services and the Ohio Association of Second Harvest Food Banks shall agree on reporting requirements to be incorporated into the grant agreement.

The Ohio Association of Second Harvest Food Banks shall return any fiscal year 2004 funds from this grant remaining unspent on June 30, 2004, to the Department of Job and Family Services not later than November 1, 2004. The Ohio Association of Second Harvest Food Banks shall return any

fiscal year 2005 funds from the grant remaining unspent on June 30, 2005, to the Department of Job and Family Services no later than November 1, 2005.

SECTION 59.08.A.1. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), the Department of Job and Family Services shall use up to \$600,000 in each fiscal year to support expenditures of the Ohio Alliance of Boys and Girls Clubs to provide nutritional meals, snacks, and educational and enrichment services to children participating in programs and activities operated by eligible Boys and Girls Clubs.

The Department of Job and Family Services shall provide an annual grant of \$600,000 in each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As soon as possible after entering into a grant agreement at the beginning of each fiscal year, the Department of Job and Family Services shall distribute the grant funds in one single payment. The Department of Job and Family Services and the Ohio Alliance of Boys and Girls Clubs shall agree on reporting requirements to be incorporated into the grant agreement.

The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2004 funds from the grant remaining unspent on June 30, 2004, to the Ohio Department of Job and Family Services not later than November 1, 2004. The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2005 funds from this grant remaining unspent on June 30, 2005, to the Ohio Department of Job and Family Services not later than November 1, 2005.

SECTION 59.09b. ADULT PROTECTIVE SERVICES

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), up to \$2,700,000 in each fiscal year shall be used by the Department of Job and Family Services to reimburse county departments of job and family services for all or part of the costs they incur in providing adult protective services pursuant to sections 5101.60 to 5101.71 of the Revised Code.

SECTION 59.10. In order to assure that the Maintenance of Effort funding for the TANF block grant is sufficient, the Director of Job and Family Services may request that the Director of Budget and Management transfer

cash from Fund 5T2, Child Support Special Payment, to Fund 4A8, Child Support Collections, as needed. This additional funding is hereby appropriated.

SECTION 59.11. PRESCRIPTION DRUG REBATE FUND

The foregoing appropriation item 600-692, Health Care Services, shall be used by the Department of Job and Family Services in accordance with section 5111.081 of the Revised Code. Moneys recovered by the Department pursuant to the Department's rights of recovery under section 5101.58 of the Revised Code, that are not directed to the Health Care Services Administration Fund (Fund 5U3) pursuant to section 5111.94 of the Revised Code shall also be deposited into Fund 5P5.

SECTION 59.12. ODJFS FUNDS

AGENCY FUND GROUP

The Agency Fund Group shall be used to hold revenues until the appropriate fund is determined or until they are directed to the appropriate governmental agency other than the Department of Job and Family Services. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 600-643, Refunds and Audit Settlements, and 600-644, Forgery Collections, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

SECTION 59.13. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY DEPARTMENTS OF JOB AND FAMILY SERVICES

Using the foregoing appropriation items 600-521, Family Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps and State Administration; 600-410, TANF State; 600-689, TANF Block Grant; 600-620, Social Services Block Grant; 600-523, Children and Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 600-617, Child Care Federal; 600-623, Health Care Federal; and 600-614, Refugees Services, the Department of Job and Family Services may establish a consolidated allocation for county departments of job and family services to

the extent authorized by Sections 5101.21 and 5101.211 of the Revised Code and rules adopted under Section 5101.21 of the Revised Code. The county department is not required to use all the money from one or more of the appropriation items listed in this paragraph for the purpose for which the specific appropriation item is made so long as the county department uses the money for a purpose for which at least one of the other of those appropriation items is made. The county department may not use the money in the consolidated allocation for a purpose other than a purpose any of those appropriation items are made. The county department shall use the money in the consolidated allocation in accordance with section 5101.21 of the Revised Code and rules adopted under that section.

If the spending estimates used in establishing the single allocation are not realized and the county department uses money in one or more of those appropriation items in a manner for which federal financial participation is not available, the department shall use state funds available in one or more of those appropriation items to ensure that the county department receives the full amount of its allocation and complete a reconciliation at the end of the fiscal year to appropriately align cash draws with expenditures related to state and federal claims.

To facilitate this reconciliation, before the thirty-first day of May of the current fiscal year and after the conclusion of the county reconciliation process for the previous fiscal year, the Director of Job and Family Services may request that the Director of Budget and Management transfer cash between the funds that make-up the consolidated allocation to the county departments of job and family services. The consolidated allocation is the maximum amount the county department shall receive from those appropriation items.

A county department not receiving a consolidated allocation shall comply with section 5101.213 of the Revised Code and the rules adopted under that section.

SECTION 59.14. TRANSFER OF FUNDS

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and Community-Based Services, in the Ohio Department of Mental Retardation and Developmental Disabilities. The sum of the transfers shall equal \$12,000,000 in fiscal year 2004 and \$12,000,000 in fiscal year 2005. The transfer may occur on a

quarterly basis or on a schedule developed and agreed to by both departments.

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from the State Special Revenue Fund 4J5, Home and Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 in fiscal year 2005. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments.

TRANSFERS OF IMD/DSH CASH

The Department of Job and Family Services shall transfer, through intrastate transfer voucher, cash from fund 5C9, Medicaid Program Support, to the Department of Mental Health's Fund 4X5, OhioCare, in accordance with an interagency agreement which delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services.

SECTION 59.15. EMPLOYER SURCHARGE

The surcharge and the interest on the surcharge amounts due for calendar years 1988, 1989, and 1990 as required by Am. Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 118th General Assembly, and section 4141.251 of the Revised Code as it existed prior to Sub. H.B. 478 of the 122nd General Assembly, again shall be assessed and collected by, accounted for, and made available to the Department of Job and Family Services in the same manner as set forth in section 4141.251 of the Revised Code as it existed prior to Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the repeal of the surcharge for calendar years after 1990, pursuant to Sub. H.B. 478 of the 122nd General Assembly, except that amounts received by the Director on or after July 1, 2001, shall be deposited into the special administrative fund established pursuant to section 4141.11 of the Revised Code.

SECTION 59.16. FUNDING FOR HABILITATIVE SERVICES

Notwithstanding any limitations contained in sections 5112.31 and 5112.37 of the Revised Code, in each fiscal year, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed for transfers to Fund 4K8 may be used by the Department of Job and Family Services to cover costs of care provided to participants in a waiver with an ICF/MR level of care requirement administered by the Department

of Job and Family Services.

SECTION 59.17. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND THE OHIO ACCESS SUCCESS PROJECT

Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from the State Special Revenue Fund 4J5, Home and Community-Based Services for the Aged, in excess of the amounts needed for the transfers may be used by the Department of Job and Family Services for the following purposes: (A) up to \$1.0 million in each fiscal year to fund the state share of audits of Medicaid cost reports filed with the Department of Job and Family Services by nursing facilities and intermediate care facilities for the mentally retarded; and (B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in fiscal year 2005 to provide one-time transitional benefits under the Ohio Access Success Project that the Director of Job and Family Services may establish under section 5111.88 of the Revised Code.

SECTION 59.18. REFUND OF SETS PENALTY

The Department of Job and Family Services shall deposit any refunds for penalties that were paid directly or indirectly by the state for the Support Enforcement Tracking System (SETS) to Fund 3V6, TANF Block Grant.

SECTION 59.19. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY

The Director of Job and Family Services may submit to the United States Secretary of Health and Human Services a request to transfer the day-to-day administration of the Program of All-Inclusive Care for the Elderly, known as PACE, in accordance with 42 U.S.C. 1396u-4, to the Department of Aging. If the United States Secretary approves the transfer, the Directors of Job and Family Services and Aging may enter into an interagency agreement under section 5111.86 of the Revised Code to transfer responsibility for the day-to-day administration of PACE from the Department of Job and Family Services to the Department of Aging. The interagency agreement is subject to the approval of the Director of Budget and Management and shall include an estimated cost of services to be provided under PACE and an estimated cost for the administrative duties assigned by the agreement to the Department of Aging.

If the Directors of Job and Family Services and Aging enter into the

interagency agreement, the Director of Budget and Management shall reduce the amount in appropriation item 600-525, Health Care/Medicaid, by the estimated costs of PACE. If the Director of Budget and Management makes the reduction, the state and federal share of the estimated costs of PACE services and administration is hereby appropriated to the Department of Aging. The Director of Budget and Management shall establish a new appropriation item for the appropriation.

SECTION 59.20. APPROPRIATIONS FROM FUND 3V0

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may increase appropriations in either appropriation item 600-662, WIA Ohio Option #7, Fund 3V0 or in appropriation item 600-688, Workforce Investment Act, Fund 3V0, with a corresponding decrease in the other appropriation item supported by Fund 3V0 to allow counties that administer the Workforce Investment Act as a conventional county to administer the Act as an Ohio Option county or to allow counties that administer the Workforce Investment Act as an Ohio Option county to administer the Act as a conventional county.

JOBS FOR OHIO GRADUATES PROGRAM

Pursuant to an interagency agreement entered into between the Department of Job and Family Services and the Department of Education, \$3,500,000 from Workforce Investment Act funds (Fund 3V0), reserved for statewide workforce investment activities, in fiscal year 2004 and fiscal year 2005, shall be used to support the Jobs for Ohio Graduates programs administered by the Department of Education.

WORKFORCE DEVELOPMENT GRANT AGREEMENT

The Department of Job and Family Services may use appropriations from appropriation item 600-662, WIA Ohio Option #7, or from appropriation item 600-688, Workforce Investment Act, to provide financial assistance for workforce development activities included in a grant agreement entered into by the department in accordance with section 5101.20 of the Revised Code.

SECTION 59.21. FEDERAL UNEMPLOYMENT PROGRAMS

There is hereby appropriated out of funds made available to the state under section 903(d) of the Social Security Act, as amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for fiscal year 2005. Upon the request

of the Director of Job and Family Services, the Director of Budget and Management shall increase the appropriation for fiscal year 2004 by the amount remaining unspent from the fiscal year 2003 appropriation and shall increase the appropriation for fiscal year 2005 by the amount remaining unspent from the fiscal year 2004 appropriation. The appropriation is to be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state pursuant to section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

Of the appropriation item 600-678, Federal Unemployment Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up to \$18,000,000 in fiscal year 2005 shall be used by the Department of Job and Family Services to reimburse the General Revenue Fund, through state intrastate transfer vouchers, for expenses incurred on or after the effective date of this section from the General Revenue Fund for the aforementioned programs as reported to the federal government as allowable expenditures.

SECTION 59.22. MEDICAID PAYMENT TO CHILDREN'S HOSPITALS

As used in this section, "children's hospital" has the same meaning as in section 3702.51 of the Revised Code.

For fiscal years 2004 and 2005, the Medicaid payment to children's hospitals shall include the adjustment for inflation provided for by paragraph (G) of rule 5101:3-2-074 of the Administrative Code as that paragraph existed on December 30, 2002.

The Department of Job and Family Services shall pay to each children's hospital participating in the Medicaid program an amount equal to the difference between (1) the amount the hospital would have been paid under rule 5101:3-2-074 of the Administrative Code for the period beginning January 1, 2003, and ending May 31, 2003, if the amendment to paragraph (G) of that rule that went into effect on December 31, 2002, had not gone into effect and (2) the amount that the hospital was paid under that rule for that period.

SECTION 59.23. MEDICAID PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES

As used in this section, "hospital" does not include a children's hospital as defined in the section of this act titled MEDICAID PAYMENT TO CHILDREN'S HOSPITALS.

The Department of Job and Family Services shall increase the total amount the Department pays all hospitals under the Medicaid Program for outpatient services provided during the period beginning July 1, 2003, and ending June 30, 2004, to the maximum extent possible using \$9,811,136 from the foregoing appropriation item 600-525, Health Care/Medicaid. The Department of Job and Family Services shall also increase the total amount the Department pays all hospitals under the Medicaid Program for outpatient services provided during the period beginning July 1, 2004, and ending June 30, 2005, to the maximum extent possible using \$9,811,136 from the foregoing appropriation item 600-525, Health Care/Medicaid. The Department shall make the increase in accordance with an inflation adjustment factor for outpatient hospital services established in rules the Director of Job and Family Services shall adopt in accordance with Chapter 119. of the Revised Code.

SECTION 59.24. CHILD CARE

(A) Notwithstanding any other provision of law, the Director of Job and Family Services shall not reduce the initial and continued eligibility level for publicly funded child care below one hundred fifty per cent of the federal poverty line during fiscal years 2004 and 2005.

(B) Notwithstanding division (B) of section 5104.39 of the Revised Code, the Director of Job and Family Services shall not, during fiscal years 2004 and 2005, disenroll publicly funded child care program participants who have incomes at or below 165 per cent of the federal poverty line and do not otherwise cease to qualify for the program, if one of the following applies:

- (1) The family enrolled in the program before June 9, 2003;
- (2) The family enrolled in the program when the family's income was at or below 150 per cent of the federal poverty line.

SECTION 59.25. MEDICAID COVERAGE OF DENTAL SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to

cover dental services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of dental services adopted under section 5111.02 of the Revised Code.

SECTION 59.26. MEDICAID COVERAGE OF VISION SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover vision care services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of vision care services under section 5111.02 of the Revised Code.

SECTION 59.27. MEDICAID COVERAGE OF PODIATRIC SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover podiatric services in at least the amount, scope, and duration that it does on the effective date of this section under rules governing Medicaid coverage of podiatric services adopted under section 5111.02 of the Revised Code.

SECTION 59.28. WELFARE DIVERSION PROGRAMS

Of the foregoing appropriation item 600-521, Family Stability Subsidy, prior to county distribution, \$1,250,000 in each fiscal year shall be used to support specific welfare diversion programs. In each fiscal year, Accountability and Credibility Together (ACT) shall receive \$1,000,000 of the \$1,250,000 to continue its welfare diversion program. In each fiscal year, \$250,000 of the \$1,250,000 shall be used to establish a welfare diversion demonstration project in Butler County. The demonstration project shall be administered by the Butler County United Way.

SECTION 59.29. OHIO COMMISSION TO REFORM MEDICAID

There is hereby established the Ohio Commission to Reform Medicaid, which shall consist of nine members: three appointed by the Governor, three by the Speaker of the House of Representatives, and three by the President of the Senate. Appointments shall be made not later than ninety days after the effective date of this section. All members shall serve at the pleasure of the appointing authority. Members shall serve without compensation. Vacancies shall be filled in the manner of original appointments.

The Commission shall conduct a complete review of the state Medicaid program and shall make recommendations for comprehensive reform and

cost containment. The Commission shall submit a report of its findings and recommendations to the Governor, Speaker, and Senate President not later than January 1, 2005.

The Commission may hire a staff director and additional employees to provide technical support.

The Director of Job and Family Services shall, on behalf of the Commission, seek federal financial participation for the administrative costs of the Commission.

SECTION 59.30. (A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) Except as provided in divisions (C) and (D) of this section and notwithstanding Chapter 5111. of the Revised Code, the number of intermediate care facility for the mentally retarded beds eligible for Medicaid payments during fiscal years 2004 and 2005 shall not be higher than the number of such beds eligible for such payments on the effective date of this section. Not later than July 15, 2003, the Department of Job and Family Services shall inform the Office of Budget and Management how many intermediate care facility for the mentally retarded beds are eligible for Medicaid payments on the effective date of this section.

(C) The Department of Job and Family Services may issue one or more waivers of division (B) of this section in the event that an emergency, as determined by the Department, exists. In determining whether to issue a waiver, the Department of Job and Family Services shall consider the recommendation of the Department of Mental Retardation and Developmental Disabilities.

(D) A bed in an intermediate care facility for the mentally retarded that obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code and is otherwise eligible to receive Medicaid payments may receive Medicaid payments during fiscal years 2004 and 2005 regardless of whether that will result in there being more beds eligible for Medicaid payments than is permitted by division (B) of this section.

SECTION 59.31. DISABILITY ASSISTANCE TRANSITION

(A) Subject to the provisions of Chapter 5115. of the Revised Code, as amended, enacted, and repealed by this act, the Disability Financial Assistance Program constitutes a continuation of the financial assistance

component of the Disability Assistance Program established under Chapter 5115. of the Revised Code, as it existed prior to the effective date of this section, and the Disability Medical Assistance Program constitutes a continuation of the medical assistance component of the Disability Assistance Program.

Any business commenced but not completed on behalf of the Disability Assistance Program shall be completed in the same manner, and with the same effect, on behalf of the Disability Financial Assistance Program and the Disability Medical Assistance Program.

Except as provided in divisions (B) and (C) of this section, all rules, orders, and determinations regarding the Disability Assistance Program continue in effect as rules, orders, and determinations regarding the Disability Financial Assistance Program and the Disability Medical Assistance Program, until modified or rescinded.

Wherever the Disability Assistance Program is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Disability Financial Assistance Program or the Disability Medical Assistance Program, whichever is appropriate.

(B) Notwithstanding any determination through administrative or judicial order or otherwise, a person who was receiving financial assistance under the Disability Assistance Program prior to the effective date of this section ceases to be eligible for continued financial assistance under the Disability Financial Assistance Program on the effective date of this section, unless one of the following is the case:

(1) The person was receiving the assistance on the basis of being age 60 or older or on the basis of being unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months.

(2) The person was receiving the assistance by meeting other eligibility requirements but applies for Disability Financial Assistance pursuant to section 5115.05 of the Revised Code, as amended by this act, and receives a determination of eligibility by meeting the requirements specified in section 5115.01 of the Revised Code, as amended by this act.

(C) Notwithstanding the provisions of section 5115.10 of the Revised Code, as amended by this act, that limit eligibility for disability medical assistance to persons determined to be medication dependent, both of the following apply:

(1) The Director of Job and Family Services may adopt rules in accordance with section 111.15 of the Revised Code providing for and

governing temporary provision of disability medical assistance to persons who were recipients of medical assistance under the Disability Assistance Program prior to the effective date of this section.

(2) A person's eligibility for disability medical assistance may continue pursuant to the rules adopted under division (C)(1) of this section until the state or county department of job and family services conducts a redetermination of the person's eligibility in accordance with the requirement that recipients be medication dependent, unless the person otherwise becomes ineligible for disability medical assistance.

SECTION 59.32. DISABILITY FINANCIAL ASSISTANCE FOR RESIDENTS OF TREATMENT CENTERS

Notwithstanding any other law to the contrary, up to \$2,176,269 in appropriation item 600-511, Disability Financial Assistance, shall be used in each fiscal year for services for residents of residential treatment centers certified as an alcohol or drug addiction program by the Department of Alcohol and Drug Addiction Services under section 3793.06 of the Revised Code.

SECTION 59.33. Of the foregoing appropriation item 600-689, TANF Block Grant, \$57,170,000 in fiscal year 2004 shall be used for the Head Start Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to provide Head Start slots in fiscal year 2004 that would otherwise not be available.

Of the foregoing appropriation item 600-689, TANF Block Grant, \$108,184,000 in fiscal year 2005 shall be used for the Head Start Plus Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to ensure that Head Start Plus provider payments reflect service rendered in fiscal year 2005.

SECTION 59.34. STUDY OF MEDICAID COVERAGE FOR BREAST AND CERVICAL CANCER TREATMENT

(A) The Department of Job and Family Services shall conduct a study of the feasibility of expanding the Medicaid coverage provided under section

5111.0110 of the Revised Code pursuant to the "Breast and Cervical Cancer Prevention and Treatment Act of 2000," 114 Stat. 1381, 42 U.S.C. 1396a, as amended. In particular, the Department shall study the extension of coverage to women who receive breast and cervical cancer screenings that are not directly paid for with federal funds obtained under Title XV of the "Public Health Service Act," 104 Stat. 409 (1990), 42 U.S.C., as amended. The study of this extension shall include consideration of both of the following options, as specified by the federal Centers for Medicare and Medicaid Services:

(1) Coverage of women who have been screened under a Title XV-funded Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program in which their particular clinical services were not paid for with Title XV funds, but the services were rendered by a provider or an entity funded at least in part with Title XV funds, and the services were within the scope of a grant, sub-grant, or contract under the breast and cervical cancer early detection program and the Title XV grantee has elected to include such screening activities by that provider or entity as screening activities pursuant to Title XV;

(2) Coverage of women who have been screened by any other provider or entity and the Title XV grantee has elected to include screening activities by that provider or entity as screening activities pursuant to Title XV.

(B) Not later than June 1, 2004, the Department shall complete its study and prepare a report of its findings and recommendations. The Department shall submit a copy of its report to the President of the Senate, Speaker of the House of Representatives, and Director of Budget and Management. Copies of the report shall be made available to the public on request.

SECTION 59.35. Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2004 and 2005 to food stamp benefit recipients who reside in a county of this state that the Department determines has had an unemployment rate of over 10 per cent for each of the four months before the month in which the waiver is in effect for the county. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of nine months beginning July 1, 2003, and ending June 30, 2005.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate

on receipt or rejection of the waiver sought under this section.

SECTION 59.36. MEDICAID PER DIEM ADJUSTMENTS FOR
ICFs/MR

(A) As used in this section:

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the intermediate care facility for the mentally retarded's per resident per day rate paid for those days.

(3) "Per diem rate" means the per diem rate calculated pursuant to Chapter 5111. of the Revised Code.

(B) Notwithstanding Chapter 5111. of the Revised Code, rates paid to intermediate care facilities for the mentally retarded under the Medicaid program shall be subject to the following limitations:

(1) For fiscal year 2004, the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state, weighted by May 2003 Medicaid days and calculated as of July 1, 2003, shall not exceed \$221.43.

(2) For fiscal year 2005, the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state, weighted by May 2004 Medicaid days and calculated as of July 1, 2004, shall not exceed \$225.86.

(3) If the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state for fiscal year 2004 or 2005, weighted by Medicaid days as specified in division (B)(1) or (2) of this section, as appropriate, and calculated as of the first day of July of the calendar year in which the fiscal year begins, exceeds the amount specified in division (B)(1) or (2) of this section, as applicable, the Department of Job and Family Services shall reduce the total per diem rate for each intermediate care facility for the mentally retarded in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the amount specified in division (B)(1) or (2) of this section for that fiscal year.

(4) Subsequent to any reduction required by division (B)(3) of this section, the rate of an intermediate care facility for the mentally retarded shall be subject to any adjustments required or authorized by Chapter 5111. of the Revised Code during the remainder of the year.

SECTION 59.37. MEDICAID PER DIEM ADJUSTMENTS FOR NURSING FACILITIES

(A) As used in this section:

(1) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(3) "Per diem rate" means the per diem rate calculated pursuant to Chapter 5111. of the Revised Code and includes the payments made to nursing facilities under division (B) of section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by this act.

(B) Notwithstanding Chapter 5111. of the Revised Code, rates paid to nursing facilities under the Medicaid program shall be subject to the following limitations:

(1) For fiscal year 2004, the mean total per diem rate for all nursing facilities in the state, weighted by May 2003 Medicaid days and calculated as of July 1, 2003, shall not exceed \$156.68.

(2) For fiscal year 2005, the mean total per diem rate for all nursing facilities in the state, weighted by May 2004 Medicaid days and calculated as of July 1, 2004, shall not exceed \$159.00, plus any difference between \$156.68 and the mean total per diem rate for all nursing facilities in the state for fiscal year 2004, weighted by Medicaid days and calculated as of July 1, 2003.

(3) If the mean total per diem rate for all nursing facilities in the state for fiscal year 2004 or 2005, weighted by Medicaid days as specified in division (B)(1) or (2) of this section, as appropriate, and calculated as of the first day of July of the calendar year in which the fiscal year begins, exceeds the amount specified for that fiscal year in division (B)(1) or (2) of this section, the Department of Job and Family Services shall reduce the total per diem rate for each nursing facility in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the amount specified in division (B)(1) or (2) of this section for that fiscal year.

(4) Subsequent to any reduction required by division (B)(3) of this section, a nursing facility's rate shall be subject to any adjustments required

or authorized by Chapter 5111. of the Revised Code during the remainder of the fiscal year.

(C) Except as follows, the Department of Job and Family Services shall continue to implement rules adopted under Chapter 5111. of the Revised Code regarding Medicaid payments to nursing facilities that are in effect on the effective date of this section:

(1) The Department shall not continue to implement a rule that is inconsistent with this act, but shall instead implement this act.

(2) The Department may adopt, amend, or rescind rules under Chapter 5111. of the Revised Code as provided by those sections to the extent those sections are consistent with this act.

SECTION 60. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund

GRF 018-321	Operating Expenses	\$	962,000	\$	957,000
TOTAL GRF General Revenue Fund		\$	962,000	\$	957,000

General Services Fund Group

403 018-601	Ohio Jury Instructions	\$	200,000	\$	200,000
TOTAL GSF General Services Fund Group		\$	200,000	\$	200,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,162,000	\$	1,157,000

STATE COUNCIL OF UNIFORM STATE LAWS

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018-321, Operating Expenses, up to \$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 may be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws.

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 403) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing educational and informational data to the state's judicial system. Fund 403 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the state's judicial system. All moneys accruing to Fund 403 in excess of \$200,000 in fiscal year 2004 and in excess of \$200,000 in fiscal year 2005 are hereby appropriated for the purposes authorized.

No money in the Ohio Jury Instructions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 61. JSC THE JUDICIARY/SUPREME COURT

General Revenue Fund

GRF 005-321	Operating Expenses - Judiciary/Supreme Court	\$	113,636,659	\$	118,401,294
GRF 005-401	State Criminal Sentencing Council	\$	346,194	\$	356,371
GRF 005-406	Law-Related Education	\$	209,836	\$	216,131
TOTAL GRF General Revenue Fund		\$	114,192,689	\$	118,973,796

General Services Fund Group

672 005-601	Continuing Judicial Education	\$	126,000	\$	120,000
TOTAL GSF General Services Fund Group		\$	126,000	\$	120,000

Federal Special Revenue Fund Group

3J0 005-603	Federal Grants	\$	1,030,061	\$	1,030,061
TOTAL FED Federal Special Revenue Fund Group		\$	1,030,061	\$	1,030,061

State Special Revenue Fund Group

4C8 005-605	Attorney Registration	\$	2,332,733	\$	2,495,171
5T8 005-609	Grants and Awards	\$	33,296	\$	33,296
6A8 005-606	Supreme Court Admissions	\$	1,230,514	\$	1,267,428
643 005-607	Commission on Continuing Legal Education	\$	568,788	\$	587,210
TOTAL SSR State Special Revenue Fund Group		\$	4,165,331	\$	4,383,105
TOTAL ALL BUDGET FUND GROUPS		\$	119,514,081	\$	124,506,962

LAW-RELATED EDUCATION

The foregoing appropriation item 005-406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 672) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005-601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Continuing Judicial Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Judicial

Education Fund shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J0) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005-603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Federal Grants Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Federal Grants Fund shall be credited or transferred to the General Revenue Fund.

ATTORNEY REGISTRATION

In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005-605, Attorney Registration, may be used to compensate employees and fund the appropriate activities of the following offices established by the Supreme Court pursuant to the Rules for the Government of the Bar of Ohio: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, the Board of Commissioners on the Unauthorized Practice of Law, and the Office of Attorney Registration. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Attorney Registration Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Attorney Registration Fund shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T8) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Office of Criminal Justice Services, or other entities. The foregoing appropriation item 005-609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Grants and Awards Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Grants and Awards Fund shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005-606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program, pursuant to the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Supreme Court Admissions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Supreme Court Admissions Fund shall be credited to the fund.

CONTINUING LEGAL EDUCATION

The foregoing appropriation item 005-607, Commission on Continuing Legal Education, shall be used to compensate employees of the Commission on Continuing Legal Education, established pursuant to the Supreme Court Rules for the Government of the Bar of Ohio, and to fund other activities of the commission considered appropriate by the court. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Continuing Legal Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Legal Education Fund shall be credited to the fund.

SECTION 62. LEC LAKE ERIE COMMISSION

State Special Revenue Fund Group

4C0 780-601	Lake Erie Protection Fund	\$	1,070,975	\$	1,070,975
5D8 780-602	Lake Erie Resources Fund	\$	689,004	\$	689,004
TOTAL SSR State Special Revenue					
Fund Group		\$	1,759,979	\$	1,759,979
TOTAL ALL BUDGET FUND GROUPS		\$	1,759,979	\$	1,759,979

CASH TRANSFER

Not later than the thirtieth day of November of each fiscal year, the

Executive Director of the Ohio Lake Erie Office, with the approval of the Lake Erie Commission, shall certify to the Director of Budget and Management the cash balance in the Lake Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet operating expenses of the Lake Erie Office. The Ohio Lake Erie Office may request the Director of Budget and Management to transfer up to the certified amount from the Lake Erie Resources Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of Budget and Management may transfer the requested amount, or the Director may transfer a different amount up to the certified amount. Cash transferred shall be used for the purposes described in division (A) of section 1506.23 of the Revised Code. The amount transferred by the director is appropriated to the foregoing appropriation item 780-601, Lake Erie Protection Fund, which shall be increased by the amount transferred.

SECTION 63. LRS LEGAL RIGHTS SERVICE

General Revenue Fund

GRF 054-100	Personal Services	\$	193,514	\$	193,514
GRF 054-200	Maintenance	\$	33,938	\$	33,938
GRF 054-300	Equipment	\$	1,856	\$	1,856
GRF 054-401	Ombudsman	\$	291,247	\$	291,247
TOTAL GRF General Revenue Fund		\$	520,555	\$	520,555

General Services Fund Group

416 054-601	Gifts and Donations	\$	1,352	\$	1,352
5M0 054-610	Settlements	\$	75,000	\$	75,000
TOTAL GSF General Services Fund Group		\$	76,352	\$	76,352

Federal Special Revenue Fund Group

3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279
3N3 054-606	Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648
3N9 054-607	Assistive Technology	\$	50,000	\$	50,000
3R9 054-604	Family Support Collaborative	\$	242,500	\$	242,500
3T2 054-609	Client Assistance Program	\$	404,807	\$	404,807
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784
3Z6 054-612	Traumatic Brain Injury	\$	50,000	\$	50,000
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363
TOTAL FED Federal Special Revenue Fund Group		\$	3,741,381	\$	3,741,381
TOTAL ALL BUDGET FUND GROUPS		\$	4,338,288	\$	4,338,288

SECTION 64. JLE JOINT LEGISLATIVE ETHICS COMMITTEE**General Revenue Fund**

GRF 028-321	Legislative Ethics Committee	\$	550,000	\$	550,000
TOTAL GRF General Revenue Fund		\$	550,000	\$	550,000
TOTAL ALL BUDGET FUND GROUPS		\$	550,000	\$	550,000

TRANSFER OF FUNDS TO GRF

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer 50 per cent of the cash balance in the Joint Legislative Ethics Committee Fund (Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as soon thereafter as possible, the Director of Budget and Management shall transfer all of the remaining cash balance in the Joint Legislative Ethics Committee Fund (Fund 4G7) to the General Revenue Fund.

SECTION 65. LSC LEGISLATIVE SERVICE COMMISSION**General Revenue Fund**

GRF 035-321	Operating Expenses	\$	14,065,000	\$	14,770,000
GRF 035-402	Legislative Interns	\$	975,000	\$	990,000
GRF 035-404	Legislative Office of Education Oversight	\$	1,205,000	\$	1,256,427
GRF 035-405	Correctional Institution Inspection Committee	\$	200,000	\$	300,000
GRF 035-406	ATMS Replacement Project	\$	20,000	\$	20,000
GRF 035-407	Legislative Task Force on Redistricting	\$	100,000	\$	0
GRF 035-409	National Associations	\$	430,000	\$	441,000
GRF 035-410	Legislative Information Systems	\$	3,624,200	\$	3,624,200
TOTAL GRF General Revenue Fund		\$	20,619,200	\$	21,401,627

General Services Fund Group

4F6 035-603	Legislative Budget Services	\$	149,350	\$	152,337
410 035-601	Sale of Publications	\$	25,000	\$	25,000
TOTAL GSF General Services Fund Group		\$	174,350	\$	177,337
TOTAL ALL BUDGET FUND GROUPS		\$	20,793,550	\$	21,578,964

ATMS REPLACEMENT PROJECT

Of the foregoing appropriation item 035-406, ATMS Replacement Project, any amounts not used for the ATMS project may be used to pay the operating expenses of the Legislative Service Commission.

SECTION 66. LIB STATE LIBRARY BOARD**General Revenue Fund**

GRF 350-321	Operating Expenses	\$	6,700,721	\$	6,700,721

Am. Sub. H. B. No. 95

1998

GRF 350-400	Ohio Public Library Information Network	\$	0	\$	5,000,000
GRF 350-401	Ohioana Rental Payments	\$	124,816	\$	124,816
GRF 350-501	Cincinnati Public Library	\$	584,414	\$	569,803
GRF 350-502	Regional Library Systems	\$	1,194,374	\$	1,194,374
GRF 350-503	Cleveland Public Library	\$	879,042	\$	857,066
TOTAL GRF General Revenue Fund		\$	9,483,367	\$	14,446,780
General Services Fund Group					
139 350-602	Intra-Agency Service Charges	\$	9,000	\$	9,000
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000
459 350-602	Interlibrary Service Charges	\$	2,759,661	\$	2,809,661
TOTAL GSF General Services Fund Group		\$	9,218,661	\$	3,818,661
Federal Special Revenue Fund Group					
313 350-601	LSTA Federal	\$	5,541,647	\$	5,541,647
TOTAL FED Federal Special Revenue Fund Group		\$	5,541,647	\$	5,541,647
TOTAL ALL BUDGET FUND GROUPS		\$	24,243,675	\$	23,807,088

OHIOANA RENTAL PAYMENTS

The foregoing appropriation item 350-401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association pursuant to section 3375.61 of the Revised Code.

CINCINNATI PUBLIC LIBRARY

The foregoing appropriation item 350-501, Cincinnati Public Library, shall be used for the Talking Book program, which assists the blind and disabled.

REGIONAL LIBRARY SYSTEMS

The foregoing appropriation item 350-502, Regional Library Systems, shall be used to support regional library systems eligible for funding under section 3375.90 of the Revised Code.

CLEVELAND PUBLIC LIBRARY

The foregoing appropriation item 350-503, Cleveland Public Library, shall be used for the Talking Book program, which assists the blind and disabled.

OHIO PUBLIC LIBRARY INFORMATION NETWORK

The foregoing appropriation items 350-604, OPLIN Technology, and, in fiscal year 2005, 350-400, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may be certified as participants by the Ohio Public Library Information Network Board.

The Ohio Public Library Information Network Board shall consist of eleven members appointed by the State Library Board from among the staff of public libraries and past and present members of boards of trustees of

public libraries, based on the recommendations of the Ohio library community. The Ohio Public Library Information Network Board, in consultation with the State Library, shall develop a plan of operations for the network. The board may make decisions regarding use of the foregoing OPLIN appropriation items 350-604 and may receive and expend grants to carry out the operations of the network in accordance with state law and the authority to appoint and fix the compensation of a director and necessary staff. The State Library shall be the fiscal agent for the network and shall have fiscal accountability for the expenditure of funds. The Ohio Public Library Information Network Board members shall be reimbursed for actual travel and necessary expenses incurred in carrying out their responsibilities.

In order to limit access to obscene and illegal materials through internet use at Ohio Public Library Information Network (OPLIN) terminals, local libraries with OPLIN computer terminals shall adopt policies that control access to obscene and illegal materials. These policies may include use of technological systems to select or block certain internet access. The OPLIN shall condition provision of its funds, goods, and services on compliance with these policies. The OPLIN Board shall also adopt and communicate specific recommendations to local libraries on methods to control such improper usage. These methods may include each library implementing a written policy controlling such improper use of library terminals and requirements for parental involvement or written authorization for juvenile internet usage.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall biannually provide written reports to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, InfOhio, and OhioLink shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule

established by the Director of Budget and Management, the Director of Budget and Management shall transfer up to \$5,000,000 in fiscal year 2004 from the Library and Local Government Support Fund (Fund 065) to the OPLIN Technology Fund (Fund 4S4).

SECTION 67. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group

043	970-321	Operating Expenses	\$	779,886	\$	794,387
TOTAL LCF Liquor Control Fund Group			\$	779,886	\$	794,387
TOTAL ALL BUDGET FUND GROUPS			\$	779,886	\$	794,387

COMPUTER EQUIPMENT

Of the foregoing appropriation item 970-321, Operating Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 2005 shall be used for computer equipment.

SECTION 68. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group

044	950-100	Personal Services	\$	25,114,200	\$	25,133,314
044	950-200	Maintenance	\$	20,100,168	\$	20,120,268
044	950-300	Equipment	\$	3,067,250	\$	3,113,259
044	950-402	Game and Advertising Contracts	\$	68,683,000	\$	68,683,000
044	950-500	Problem Gambling Subsidy	\$	335,000	\$	335,000
044	950-601	Prizes, Bonuses, and Commissions	\$	166,173,455	\$	166,173,455
871	950-602	Annuity Prizes	\$	162,228,451	\$	162,185,260
TOTAL SLF State Lottery Fund Group			\$	445,701,524	\$	445,743,556
TOTAL ALL BUDGET FUND GROUPS			\$	445,701,524	\$	445,743,556

OPERATING EXPENSES

The Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

PRIZES, BONUSES, AND COMMISSIONS

Any amounts, in addition to the amounts appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, that are determined by the Director of the State Lottery Commission to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group

(Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950-602, Annuity Prizes, that are determined by the Director of the State Lottery Commission to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Ohio Lottery Commission shall transfer an amount greater than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 in fiscal year 2005 to the Lottery Profits Education Fund. Transfers from the Commission to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2004 or fiscal year 2005. Transfers by the Commission to the Lottery Profits Education Fund shall be administered in accordance with and pursuant to the Revised Code.

TRANSFERS OF UNCLAIMED PRIZE FUNDS

On July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer up to \$7,500,000 in cash from the Unclaimed Prize Fund (Fund 872) to the Lottery Profits Education Reserve Fund (Fund 018). The remaining unencumbered and unallotted balances as of July 31, 2003, in the Unclaimed Prize Fund (Fund 872) are hereby transferred to the State Lottery Fund Group (Fund 044).

SECTION 69. MED STATE MEDICAL BOARD

General Services Fund Group

5C6 883-609	State Medical Board	\$	7,098,956	\$	7,199,935
	Operating				

TOTAL GSF General Services

Fund Group	\$	7,098,956	\$	7,199,935
TOTAL ALL BUDGET FUND GROUPS	\$	7,098,956	\$	7,199,935

SECTION 70. DMH DEPARTMENT OF MENTAL HEALTH

Division of General Administration Intragovernmental Service Fund Group

151 235-601	General Administration	\$	85,181,973	\$	85,181,973

TOTAL ISF Intragovernmental

Service Fund Group	\$	85,181,973	\$	85,181,973

Division of Mental Health--

Psychiatric Services to Correctional Facilities

General Revenue Fund

GRF 332-401	Forensic Services	\$	4,338,858	\$	4,338,858
TOTAL GRF	General Revenue Fund	\$	4,338,858	\$	4,338,858
TOTAL ALL BUDGET FUND GROUPS		\$	89,520,831	\$	89,520,831

FORENSIC SERVICES

The foregoing appropriation item 322-401, Forensic Services, shall be used to provide psychiatric services to courts of common pleas. The appropriation shall be allocated through community mental health boards to certified community agencies and shall be distributed according to the criteria delineated in rule 5122:4-1-01 of the Administrative Code. These community forensic funds may also be used to provide forensic training to community mental health boards and to forensic psychiatry residency programs in hospitals operated by the Department of Mental Health and to provide evaluations of patients of forensic status in facilities operated by the Department of Mental Health prior to conditional release to the community.

In addition, appropriation item 332-401, Forensic Services, may be used to support projects involving mental health, substance abuse, courts, and law enforcement to identify and develop appropriate alternative services to institutionalization for nonviolent mentally ill offenders, and to provide linkage to community services for severely mentally disabled offenders released from institutions operated by the Department of Rehabilitation and Correction. Funds may also be utilized to provide forensic monitoring and tracking in addition to community programs serving persons of forensic status on conditional release or probation.

**Division of Mental Health--
Administration and Statewide Programs**

General Revenue Fund

GRF 333-321	Central Administration	\$	22,808,798	\$	24,178,778
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919
GRF 333-403	Pre-Admission Screening Expenses	\$	650,135	\$	650,135
GRF 333-415	Lease-Rental Payments	\$	25,935,650	\$	23,206,750
GRF 333-416	Research Program Evaluation	\$	1,001,551	\$	1,001,551
TOTAL GRF	General Revenue Fund	\$	51,761,053	\$	50,402,133

General Services Fund Group

149 333-609	Central Office Rotary - Operating	\$	1,087,454	\$	1,103,578
TOTAL	General Services Fund Group	\$	1,087,454	\$	1,103,578

Federal Special Revenue Fund Group

3A7 333-612	Social Services Block Grant	\$	25,000	\$	0
3A8 333-613	Federal Grant - Administration	\$	57,470	\$	57,984
3A9 333-614	Mental Health Block Grant	\$	827,363	\$	835,636
3B1 333-635	Community Medicaid Expansion	\$	4,126,430	\$	4,145,222
324 333-605	Medicaid/Medicare	\$	523,761	\$	514,923
TOTAL	Federal Special Revenue				

Am. Sub. H. B. No. 95

2003

Fund Group		\$	5,560,024	\$	5,553,765
State Special Revenue Fund Group					
4X5 333-607	Behavioral Health Medicaid Services	\$	2,913,327	\$	3,000,634
485 333-632	Mental Health Operating	\$	134,233	\$	134,233
5M2 333-602	PWLC Campus Improvement	\$	200,000	\$	200,000
TOTAL State Special Revenue Fund Group					
		\$	3,247,560	\$	3,334,867
TOTAL ALL BUDGET FUND GROUPS					
		\$	61,656,091	\$	60,394,343

RESIDENCY TRAINEESHIP PROGRAMS

The foregoing appropriation item 333-402, Resident Trainees, shall be used to fund training agreements entered into by the Department of Mental Health for the development of curricula and the provision of training programs to support public mental health services.

PRE-ADMISSION SCREENING EXPENSES

The foregoing appropriation item 333-403, Pre-Admission Screening Expenses, shall be used to pay for costs to ensure that uniform statewide methods for pre-admission screening are in place to perform assessments for persons in need of mental health services or for whom institutional placement in a hospital or in another inpatient facility is sought. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

LEASE-RENTAL PAYMENTS

The foregoing appropriation item 333-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Mental Health pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$49,142,400. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 70.01. DIVISION OF MENTAL HEALTH - HOSPITALS

General Revenue Fund

GRF 334-408	Community and Hospital Mental Health Services	\$	380,249,629	\$	390,506,082
GRF 334-506	Court Costs	\$	976,652	\$	976,652
TOTAL GRF General Revenue Fund					
		\$	381,226,281	\$	391,482,734

General Services Fund Group

149 334-609	Hospital Rotary - Operating Expenses	\$	22,908,053	\$	24,408,053

Am. Sub. H. B. No. 95

2004

150	334-620	Special Education	\$	120,930	\$	120,930
TOTAL GSF General Services						
	Fund Group		\$	23,028,983	\$	24,528,983
Federal Special Revenue Fund Group						
3B0	334-617	Elementary and Secondary Education Act	\$	248,644	\$	251,866
3B1	334-635	Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000
324	334-605	Medicaid/Medicare	\$	10,484,944	\$	10,916,925
TOTAL FED Federal Special Revenue						
	Fund Group		\$	12,733,588	\$	13,168,791
State Special Revenue Fund Group						
485	334-632	Mental Health Operating	\$	2,387,253	\$	2,476,297
5L2	334-619	Health Foundation/Greater Cincinnati	\$	26,000	\$	0
692	334-636	Community Mental Health Board Risk Fund	\$	100,000	\$	100,000
TOTAL SSR State Special Revenue						
	Fund Group		\$	2,513,253	\$	2,576,297
TOTAL ALL BUDGET FUND GROUPS			\$	419,502,105	\$	431,756,805

COMMUNITY MENTAL HEALTH BOARD RISK FUND

The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments pursuant to section 5119.62 of the Revised Code.

SECTION 70.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT SERVICES**General Revenue Fund**

GRF	335-419	Community Medication Subsidy	\$	7,711,092	\$	7,959,798
GRF	335-505	Local MH Systems of Care	\$	89,687,868	\$	89,687,868
TOTAL GRF General Revenue Fund			\$	97,398,960	\$	97,647,666

General Services Fund Group

4P9	335-604	Community Mental Health Projects	\$	200,000	\$	200,000
TOTAL GSF General Services			\$	200,000	\$	200,000

Federal Special Revenue Fund Group

3A7	335-612	Social Services Block Grant	\$	9,314,108	\$	9,314,108
3A8	335-613	Federal Grant - Community Mental Health Board Subsidy	\$	1,717,040	\$	1,717,040
3A9	335-614	Mental Health Block Grant	\$	16,887,218	\$	17,056,090
3B1	335-635	Community Medicaid Expansion	\$	220,472,136	\$	237,766,721
TOTAL FED Federal Special Revenue Fund Group			\$	248,390,502	\$	265,853,959

State Special Revenue Fund Group

632	335-616	Community Capital Replacement	\$	250,000	\$	250,000
TOTAL SSR State Special Revenue Fund			\$	250,000	\$	250,000

Group			
TOTAL ALL BUDGET FUND GROUPS	\$	346,239,462	\$ 363,951,625
DEPARTMENT TOTAL			
GENERAL REVENUE FUND	\$	534,725,152	\$ 543,871,391
DEPARTMENT TOTAL			
GENERAL SERVICES FUND GROUP	\$	24,316,437	\$ 25,832,561
DEPARTMENT TOTAL			
FEDERAL SPECIAL REVENUE			
FUND GROUP	\$	266,684,114	\$ 284,576,515
DEPARTMENT TOTAL			
STATE SPECIAL REVENUE FUND GROUP	\$	6,010,813	\$ 6,161,164
DEPARTMENT TOTAL			
INTRAGOVERNMENTAL FUND GROUP	\$	85,181,973	\$ 85,181,973
TOTAL DEPARTMENT OF MENTAL	\$	916,918,489	\$ 945,623,604
HEALTH			

SECTION 70.03. COMMUNITY MEDICATION SUBSIDY

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

LOCAL MENTAL HEALTH SYSTEMS OF CARE

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted pursuant to section 340.03 of the Revised Code and as approved by the Department of Mental Health.

Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2004 and not less than \$34,818,917 in fiscal year 2005 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards.

Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.

BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

SECTION 71. DMR DEPARTMENT OF MENTAL RETARDATION

AND DEVELOPMENTAL DISABILITIES

SECTION 71.01. GENERAL ADMINISTRATION AND STATEWIDE SERVICES

General Revenue Fund

GRF 320-321	Central Administration	\$	9,174,390	\$	9,357,878
GRF 320-412	Protective Services	\$	1,911,471	\$	2,008,330
GRF 320-415	Lease-Rental Payments	\$	25,935,650	\$	23,206,750
TOTAL GRF General Revenue Fund		\$	37,021,511	\$	34,572,958

General Services Fund Group

4B5 320-640	Conference/Training	\$	400,000	\$	400,000
TOTAL GSF General Services Fund Group		\$	400,000	\$	400,000

Federal Special Revenue Fund Group

3A4 320-605	Administrative Support	\$	12,492,892	\$	12,492,892
3A5 320-613	DD Council Operating Expenses	\$	861,000	\$	861,000
325 320-634	Protective Services	\$	100,000	\$	100,000
TOTAL FED Federal Special Revenue Fund Group		\$	13,453,892	\$	13,453,892

State Special Revenue Fund Group

5S2 590-622	Medicaid Administration & Oversight	\$	2,969,552	\$	2,969,552

TOTAL SSR State Special Revenue

Fund Group	\$	2,969,552	\$	2,969,552

TOTAL ALL GENERAL

ADMINISTRATION

AND STATEWIDE SERVICES

BUDGET FUND GROUPS	\$	53,844,955	\$	51,396,402

LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Mental Retardation and Developmental Disabilities pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$49,142,400. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 71.02. COMMUNITY SERVICES

General Revenue Fund

GRF 322-405	State Use Program	\$	268,792	\$	273,510
GRF 322-413	Residential and Support Services	\$	8,439,337	\$	8,450,787
GRF 322-416	Waiver State Match	\$	95,695,198	\$	100,019,747
GRF 322-417	Supported Living	\$	43,179,715	\$	43,179,715
GRF 322-451	Family Support Services	\$	6,975,870	\$	6,975,870
GRF 322-452	Service and Support Administration	\$	8,849,724	\$	8,849,724
GRF 322-501	County Boards Subsidies	\$	31,795,691	\$	31,795,691
GRF 322-503	Tax Equity	\$	14,000,000	\$	15,000,000
TOTAL GRF General Revenue Fund		\$	209,204,327	\$	214,545,044

General Services Fund Group

4J6 322-645	Intersystem Services for Children	\$	3,300,000	\$	3,300,000
4U4 322-606	Community MR and DD Trust	\$	300,000	\$	300,000
4V1 322-611	Program Support	\$	610,000	\$	625,000
488 322-603	Residential Services Refund	\$	1,000,000	\$	1,000,000
TOTAL GSF General Services Fund Group		\$	5,210,000	\$	5,225,000

Federal Special Revenue Fund Group

3A4 322-605	Community Program Support	\$	1,000,000	\$	1,000,000
3A4 322-610	Community Residential Support	\$	500,000	\$	500,000
3A5 322-613	DD Council Grants	\$	3,130,000	\$	3,130,000
3G6 322-639	Medicaid Waiver	\$	344,068,714	\$	373,772,814
3M7 322-650	CAFS Medicaid	\$	254,739,737	\$	267,668,087
325 322-608	Federal Grants - Operating Expenses	\$	2,023,587	\$	1,833,815
325 322-612	Social Service Block Grant	\$	10,319,346	\$	10,330,830
325 322-617	Education Grants - Operating	\$	75,500	\$	75,500
TOTAL FED Federal Special Revenue Fund Group		\$	615,856,884	\$	658,311,046

State Special Revenue Fund Group

4K8 322-604	Waiver - Match	\$	12,000,000	\$	12,000,000
5H0 322-619	Medicaid Repayment	\$	25,000	\$	25,000
TOTAL SSR State Special Revenue Fund Group		\$	12,025,000	\$	12,025,000
TOTAL ALL COMMUNITY SERVICES BUDGET FUND GROUPS		\$	842,296,211	\$	890,106,090

RESIDENTIAL AND SUPPORT SERVICES

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-413, Residential and Support Services, for the following:

(A) Sermak Class Services used to implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United States District Court for the Southern District of Ohio,

Eastern Division;

(B) Medicaid-reimbursed programs other than home and community-based waiver services, in an amount not to exceed \$1,000,000 in each fiscal year, that enable persons with mental retardation and developmental disabilities to live in the community.

WAIVER STATE MATCH

The purposes for which the foregoing appropriation item 322-416, Waiver State Match, shall be used include the following:

(A) Home and community-based waiver services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) Services contracted by county boards of mental retardation and developmental disabilities.

(C) To pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-416, Waiver State Match, to county boards of mental retardation and developmental disabilities that have greater need for various residential and support services due to a low percentage of residential and support services development in comparison to the number of individuals with mental retardation or developmental disabilities in the county.

Of the foregoing appropriation item 322-416, Waiver State Match, \$9,850,000 in each year of the biennium shall be distributed by the Department to county boards of mental retardation and developmental disabilities to support existing residential facilities waiver and individual options waiver related to Medicaid activities provided for in the component of a county board's plan developed under division (A)(2) of section 5126.054 of the Revised Code and approved under section 5123.046 of the Revised Code. Up to \$3,000,000 of these funds in each fiscal year may be used to implement day-to-day program management services under division (A)(2) of section 5126.054 of the Revised Code. Up to \$4,200,000 in each fiscal year may be used to implement the program and health and welfare requirements of division (A)(2) of section 5126.054 of the Revised Code.

In fiscal years 2004 and 2005 not less than \$2,650,000 of these funds

shall be used to recruit and retain, under division (A)(2) of section 5126.054 of the Revised Code, the direct care staff necessary to implement the services included in an individualized service plan in a manner that ensures the health and welfare of the individuals being served.

The methodology utilized by the department to determine each residential facilities waiver and individual options provider's allocation of such funds in fiscal year 2003 shall be used for allocation purposes to such providers in fiscal years 2004 and 2005, respectively.

SUPPORTED LIVING

The purposes for which the foregoing appropriation item 322-417, Supported Living, shall be used include supported living services contracted by county boards of mental retardation and developmental disabilities in accordance with sections 5126.40 to 5126.47 of the Revised Code and to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may develop residential and support service programs funded by appropriation item 322-413, Residential and Support Services, appropriation item 322-416, Waiver State Match, or appropriation item 322-417, Supported Living, that enable persons with mental retardation and developmental disabilities to live in the community. Notwithstanding Chapter 5121. and section 5123.122 of the Revised Code, the department may waive the support collection requirements of those statutes for persons in community programs developed by the department under this section. The department shall adopt rules under Chapter 119. of the Revised Code or may use existing rules for the implementation of these programs.

FAMILY SUPPORT SERVICES

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 5126.11 of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may implement programs funded by appropriation item 322-451, Family Support Services, to provide assistance to persons with mental retardation or developmental disabilities and their families who are living in the community. The department shall adopt rules

to implement these programs. The department may also use the foregoing appropriation item 322-451, Family Support Services, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

SERVICE AND SUPPORT ADMINISTRATION

The foregoing appropriation item 322-452, Service and Support Administration, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing service and support administration services and to assist in bringing state funding for all department-approved service and support administrators within county boards of mental retardation and developmental disabilities to the level authorized in division (C) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item 322-452, Service and Support Administration, to be used to meet the statutory funding level in division (C) of section 5126.15 of the Revised Code.

Notwithstanding division (C) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Service and Support Administration, no county may receive less than its allocation in fiscal year 1995. Wherever case management services are referred to in any law, contract, or other document, the reference shall be deemed to refer to service and support administration. No action or proceeding pending on the effective date of this section is affected by the renaming of case management services as service and support administration.

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The department may also use the foregoing appropriation item 322-452, Service and Support Administration, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded

certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

STATE SUBSIDIES TO MR/DD BOARDS

The foregoing appropriation item 322-501, County Boards Subsidies, shall be distributed to county boards of mental retardation and developmental disabilities pursuant to section 5126.12 of the Revised Code to the limit of the lesser of the amount required by that section or the appropriation in appropriation item 322-501 prorated to all county boards of mental retardation and developmental disabilities.

The department may also use the foregoing appropriation item 322-501, County Boards Subsidies, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

TAX EQUITY

The foregoing appropriation item 322-503, Tax Equity, shall be used to fund the tax equalization program created under section 5126.18 of the Revised Code for county boards of mental retardation and developmental disabilities.

INTERSYSTEM SERVICES FOR CHILDREN

The foregoing appropriation item 322-645, Intersystem Services for Children, shall be used to support direct grants to county family and children first councils created under section 121.37 of the Revised Code. The funds shall be used as partial support payment and reimbursement for locally coordinated treatment plans for multi-needs children that come to the attention of the Family and Children First Cabinet Council pursuant to section 121.37 of the Revised Code. The Department of Mental Retardation and Developmental Disabilities may use up to five per cent of this amount for administrative expenses associated with the distribution of funds to the county councils.

WAIVER - MATCH

The foregoing appropriation item 322-604, Waiver-Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers.

SECTION 71.03. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a methodology for recovery of all costs associated with the provisions of these services.

SECTION 71.04. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

Beginning July 1, 2003, the Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

SECTION 71.05. RESIDENTIAL FACILITIES

General Revenue Fund

GRF 323-321	Residential Facilities Operations	\$	105,701,254	\$	107,252,799

TOTAL GRF General Revenue Fund		\$	105,701,254	\$	107,252,799

General Services Fund Group

152 323-609	Residential Facilities Support	\$	912,177	\$	912,177

TOTAL GSF General Services Fund Group		\$	912,177	\$	912,177

Federal Special Revenue Fund Group

3A4 323-605	Residential Facilities Reimbursement	\$	128,736,729	\$	128,831,708

325 323-608	Federal Grants - Subsidies	\$	571,381	\$	582,809

325 323-617	Education Grants - Residential Facilities	\$	425,000	\$	425,000

TOTAL FED Federal Special Revenue Fund Group		\$	129,733,110	\$	129,839,517

State Special Revenue Fund Group

489 323-632	Operating Expense	\$	12,125,628	\$	12,125,628

TOTAL SSR State Special Revenue Fund Group		\$	12,125,628	\$	12,125,628

TOTAL ALL RESIDENTIAL FACILITIES BUDGET FUND GROUPS		\$	248,472,169	\$	250,130,121

Am. Sub. H. B. No. 95

2013

DEPARTMENT TOTAL			
GENERAL REVENUE FUND	\$	351,927,092	\$ 356,370,801
DEPARTMENT TOTAL			
GENERAL SERVICES FUND GROUP	\$	6,522,177	\$ 6,537,177
DEPARTMENT TOTAL			
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$ 801,604,455
DEPARTMENT TOTAL			
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$ 27,120,180
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	\$	1,144,613,335	\$ 1,191,632,613

(A) The Executive Branch Committee on Medicaid Redesign and Expansion of MRDD Services, as established by Am. Sub. H.B. 94 of the 124th General Assembly, shall continue and consist of all of the following individuals:

- (1) One representative of the Governor appointed by the Governor;
- (2) Two representatives of the Department of Mental Retardation and Developmental Disabilities appointed by the Director of Mental Retardation and Developmental Disabilities;
- (3) Two representatives of the Department of Job and Family Services appointed by the Director of Job and Family Services;
- (4) One representative of the Office of Budget and Management appointed by the Director of Budget and Management;
- (5) One representative of The Arc of Ohio appointed by the organization's board of trustees;
- (6) One representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities appointed by the association's board of trustees;
- (7) One representative of the Ohio Superintendents of County Boards of Mental Retardation and Developmental Disabilities appointed by the organization's board of trustees;
- (8) One representative of the Ohio Provider Resource Association appointed by the association's board of trustees;
- (9) One representative of the Ohio Health Care Association appointed by the association's board of trustees;
- (10) One representative of individuals with mental retardation or other developmental disability appointed by the Director of Mental Retardation and Developmental Disabilities.

(B) The Governor shall appoint the chairperson of the committee. Members of the committee shall serve without compensation or reimbursement, except to the extent that serving on the committee is considered a part of their regular employment duties.

(C) The committee shall meet at times determined by the chairperson to do all of the following:

(1) Review the effect that the provisions of this act regarding Medicaid funding for services to individuals with mental retardation or other developmental disability have on the funding and provision of services to such individuals;

(2) Identify issues related to, and barriers to, the effective implementation of those provisions of this act with the goal of meeting the needs of individuals with mental retardation or other developmental disability;

(3) Establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.

(D) The committee shall submit a final report to the Governor and Directors of Mental Retardation and Developmental Disabilities and Job and Family Services and shall cease to exist on submission of the final report unless the Governor issues an executive order providing for the committee to continue.

SECTION 71.06. (A) As used in this section:

(1) "Family support services," "home and community-based services," "service and support administration," and "supported living" have the same meaning as in section 5126.01 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If one or more new beds obtain certification as an intermediate care facility for the mentally retarded bed on or after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer:

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and Developmental Disabilities for home and community-based services and supported living for which the Director is authorized to make allocations to county boards;

(2) If the beds are located in a county served by a county board that initiates or supports the beds' certification, funds appropriated to the Department for family support services, service and support administration, and other services for which the Director is authorized to make allocations

to counties.

(C) The funds that the Director transfers under division (B)(2) of this section shall be funds that the Director has allocated to the county board serving the county in which the beds are located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the cost under the Medicaid Program for those beds. If the allocation is insufficient, the Director shall use as much of such funds allocated to other counties as is needed to make up the difference.

SECTION 72. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149-321	Operating Expenses	\$	539,318	\$	539,318
GRF 149-501	Minority Health Grants	\$	751,478	\$	751,478
GRF 149-502	Lupus Program	\$	141,556	\$	141,556
TOTAL GRF General Revenue Fund		\$	1,432,352	\$	1,432,352

Federal Special Revenue Fund Group

3J9 149-602	Federal Grants	\$	150,000	\$	150,000
TOTAL FED Federal Special Revenue Fund Group		\$	150,000	\$	150,000

State Special Revenue Fund Group

4C2 149-601	Minority Health Conference	\$	150,000	\$	150,000
TOTAL SSR State Special Revenue Fund Group		\$	150,000	\$	150,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,732,352	\$	1,732,352

LUPUS PROGRAM

The foregoing appropriation item 149-502, Lupus Program, shall be used to provide grants for programs in patient, public, and professional education on the subject of systemic lupus erythematosus; to encourage and develop local centers on lupus information gathering and screening; and to provide outreach to minority women.

SECTION 73. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD

General Service Fund Group

5H9 865-609	Operating Expenses	\$	285,497	\$	314,422
TOTAL GSF General Services Fund Group		\$	285,497	\$	314,422
TOTAL ALL BUDGET FUND GROUPS		\$	285,497	\$	314,422

SECTION 74. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 725-404	Fountain Square Rental Payments - OBA	\$	1,093,300	\$	1,094,800

Am. Sub. H. B. No. 95

2016

GRF 725-407	Conservation Reserve Enhancement Program	\$	1,218,750	\$	1,218,750
GRF 725-412	Reclamation Commission	\$	57,934	\$	57,934
GRF 725-413	OPFC Lease Rental Payments	\$	15,066,500	\$	17,709,500
GRF 725-423	Stream and Ground Water Gauging	\$	331,819	\$	331,819
GRF 725-425	Wildlife License Reimbursement	\$	816,319	\$	816,319
GRF 725-456	Canal Lands	\$	332,859	\$	332,859
GRF 725-502	Soil and Water Districts	\$	11,182,024	\$	11,475,507
GRF 725-903	Natural Resources General Obligation Debt Service	\$	23,808,300	\$	26,914,300
GRF 727-321	Division of Forestry	\$	9,068,735	\$	9,068,735
GRF 728-321	Division of Geological Survey	\$	1,731,456	\$	1,731,456
GRF 729-321	Office of Information Technology	\$	440,895	\$	440,895
GRF 730-321	Division of Parks and Recreation	\$	34,232,205	\$	37,061,493
GRF 731-321	Office of Coastal Management	\$	248,679	\$	259,707
GRF 733-321	Division of Water	\$	3,355,830	\$	3,237,619
GRF 736-321	Division of Engineering	\$	3,410,852	\$	3,436,918
GRF 737-321	Division of Soil and Water	\$	4,215,288	\$	4,234,788
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781
GRF 741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967
TOTAL GRF General Revenue Fund		\$	119,477,925	\$	128,355,552
General Services Fund Group					
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240
204 725-687	Information Services	\$	3,384,275	\$	3,476,627
206 725-689	REALM Support Services	\$	475,000	\$	475,000
207 725-690	Real Estate Services	\$	54,000	\$	54,000
223 725-665	Law Enforcement Administration	\$	969,825	\$	976,225
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000
4S9 725-622	NatureWorks Personnel	\$	908,516	\$	983,103
4X8 725-662	Water Resources Council	\$	282,524	\$	282,524
430 725-671	Canal Lands	\$	1,119,834	\$	1,059,056
508 725-684	Natural Resources Publications	\$	209,364	\$	215,626
510 725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849
516 725-620	Water Management	\$	3,663,849	\$	2,342,814
635 725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199
697 725-670	Submerged Lands	\$	507,099	\$	542,011
TOTAL GSF General Services Fund Group		\$	27,965,095	\$	27,652,705
Federal Special Revenue Fund Group					

Am. Sub. H. B. No. 95

2017

3B3	725-640	Federal Forest Pass-Thru	\$	140,000	\$	150,000
3B4	725-641	Federal Flood Pass-Thru	\$	280,000	\$	285,000
3B5	725-645	Federal Abandoned Mine Lands	\$	11,922,845	\$	11,843,866
3B6	725-653	Federal Land and Water Conservation Grants	\$	4,900,000	\$	5,000,000
3B7	725-654	Reclamation - Regulatory	\$	2,179,870	\$	2,168,413
3P0	725-630	Natural Areas and Preserves - Federal	\$	718,876	\$	552,480
3P1	725-632	Geological Survey - Federal	\$	470,780	\$	479,653
3P2	725-642	Oil and Gas-Federal	\$	224,537	\$	232,964
3P3	725-650	Real Estate and Land Management - Federal	\$	2,357,000	\$	2,357,000
3P4	725-660	Water - Federal	\$	300,000	\$	242,000
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	792,028	\$	837,223
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871
328	725-603	Forestry Federal	\$	1,530,561	\$	1,484,531
332	725-669	Federal Mine Safety Grant	\$	247,364	\$	258,103
TOTAL FED Federal Special Revenue Fund Group			\$	27,642,732	\$	27,470,104
State Special Revenue Fund Group						
4J2	725-628	Injection Well Review	\$	98,468	\$	81,188
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000
4U6	725-668	Scenic Rivers Protection	\$	561,000	\$	617,100
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000
5P2	725-634	Wildlife Boater Angler Administration	\$	1,500,000	\$	1,500,000
509	725-602	State Forest	\$	982,970	\$	1,127,117
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254
518	725-643	Oil and Gas Permit Fees	\$	2,205,651	\$	2,399,580
518	725-677	Oil and Gas Well Plugging	\$	1,000,000	\$	1,000,000
521	725-627	Off-Road Vehicle Trails	\$	118,490	\$	123,490
522	725-656	Natural Areas Checkoff Funds	\$	2,046,737	\$	1,550,670
526	725-610	Strip Mining Administration Fees	\$	1,449,459	\$	1,449,459
527	725-637	Surface Mining Administration	\$	2,793,938	\$	2,693,938
529	725-639	Unreclaimed Land Fund	\$	1,841,589	\$	1,971,037
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087
532	725-644	Litter Control and Recycling	\$	12,544,686	\$	12,544,686
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000
615	725-661	Dam Safety	\$	286,045	\$	408,223
TOTAL SSR State Special Revenue Fund Group			\$	63,283,308	\$	63,212,915
Clean Ohio Fund Group						
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000
TOTAL CLR Clean Ohio Fund Group			\$	155,000	\$	155,000
Wildlife Fund Group						
015	740-401	Division of Wildlife	\$	46,427,945	\$	46,814,691

Am. Sub. H. B. No. 95

2018

815	725-636	Conservation Cooperative Management Projects	\$	120,449	\$	120,449
816	725-649	Wetlands Habitat	\$	966,885	\$	966,885
817	725-655	Wildlife Conservation Checkoff Fund	\$	5,000,000	\$	5,000,000
818	725-629	Cooperative Fisheries Research	\$	988,582	\$	988,582
819	725-685	Ohio River Management	\$	128,584	\$	128,584
TOTAL WLF Wildlife Fund Group			\$	53,632,445	\$	54,019,191
Waterways Safety Fund Group						
086	725-414	Waterways Improvement	\$	3,813,051	\$	4,140,186
086	725-418	Buoy Placement	\$	42,182	\$	42,182
086	725-501	Waterway Safety Grants	\$	137,867	\$	137,867
086	725-506	Watercraft Marine Patrol	\$	576,153	\$	576,153
086	725-513	Watercraft Educational Grants	\$	366,643	\$	366,643
086	739-401	Division of Watercraft	\$	19,420,712	\$	18,718,847
TOTAL WSF Waterways Safety Fund Group			\$	24,356,608	\$	23,981,878
Holding Account Redistribution Fund Group						
R17	725-659	Performance Cash Bond Refunds	\$	226,500	\$	226,500
R43	725-624	Forestry	\$	800,000	\$	800,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	1,026,500	\$	1,026,500
Accrued Leave Liability Fund Group						
4M8	725-675	FOP Contract	\$	20,844	\$	20,844
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,844	\$	20,844
TOTAL ALL BUDGET FUND GROUPS			\$	317,560,457	\$	325,894,689

SECTION 74.01. FOUNTAIN SQUARE

The foregoing appropriation item 725-404, Fountain Square Rental Payments - OBA, shall be used by the Department of Natural Resources to meet all payments required to be made to the Ohio Building Authority during the period from July 1, 2003, to June 30, 2005, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of \$2,188,100.

The Director of Natural Resources, using intrastate transfer vouchers, shall make payments to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for the other funds' shares of the lease rental payments to the Ohio Building Authority. The transfers from the non-General Revenue funds shall be made within 10 days of the payment to the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of the Revised Code.

The foregoing appropriation item 725-664, Fountain Square Facilities Management (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 635).

LEASE RENTAL PAYMENTS

The foregoing appropriation item 725-413, OPFC Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of \$32,776,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725-903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.05 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 74.02. WILDLIFE LICENSE REIMBURSEMENT

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

CANAL LANDS

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$120,000 shall be earmarked in fiscal year 2004 for the Franklin County Soil and Water District.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$175,000 shall be earmarked in fiscal year 2004 for the Indian Lake Watershed.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$50,000 shall be earmarked for the Rush Creek Watershed in each fiscal year.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$28,000 shall be earmarked for the Conservation Action Program in each fiscal year.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$150,000 each fiscal year shall be earmarked for the Muskingum Conservancy District.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$120,000 in fiscal year 2004 shall be earmarked for the relocation of Route 30.

FUND CONSOLIDATION

On July 15, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance as certified by the Director of Natural Resources from the Real Estate and Land Management-Federal Fund (Fund 3P3) to the REALM-Federal Fund (Fund

3Z5). The Director shall cancel any remaining outstanding encumbrances against appropriation item 725-650, Real Estate and Land Management-Federal, that are associated with the REALM federal programs and reestablish them against appropriation item 725-657, REALM-Federal. The amounts of any encumbrances canceled and reestablished are hereby appropriated.

LAW ENFORCEMENT ADMINISTRATION

On or after July 1, 2003, but not later than July 15, 2003, the Director of Budget and Management shall transfer \$969,825 from the Central Support Indirect Fund (Fund 157) to the Law Enforcement Administration Fund (Fund 223). On or after July 1, 2004, but not later than July 15, 2004, the Director of Budget and Management shall transfer \$976,225 from the Central Support Indirect Fund (Fund 157) to the Law Enforcement Administration Fund (Fund 223).

OIL AND GAS WELL PLUGGING

The foregoing appropriation item 725-677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. Appropriation authority from this appropriation item shall not be transferred to any other fund or line item.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725-405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering section 1519.05 of the Revised Code.

DIVISION OF SOIL AND WATER

Of the foregoing appropriation item 737-321, Division of Soil and Water, \$220,000 in each fiscal year shall be earmarked for the Water Quality Laboratory located at Heidelberg College.

WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739-401, Division of Watercraft, not more than \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural

Resources and the eligible marine patrol.

ELIMINATION OF CIVILIAN CONSERVATION CORPS

Upon the closure of the Division of Civilian Conservation, the Director of Natural Resources, not later than June 30, 2004, shall distribute, allocate, salvage, or transfer all assets, equipment, supplies, and cash balances of the Division of Civilian Conservation to other operating divisions of the Department of Natural Resources as determined by the director. The director shall maintain a record of such disposition of all assets.

The director shall maintain balances within the Civilian Conservation Corps Fund to pay all outstanding obligations, including unemployment and other costs associated with the orderly closure of the Division of Civilian Conservation. All amounts necessary for the orderly closure are hereby appropriated.

PROHIBITION AGAINST ENTRANCE FEES FOR STATE PARKS AND NATURE PRESERVES

During the biennium that includes fiscal years 2004 and 2005, the Department of Natural Resources shall not charge a fee for the privilege of entering a state park or a nature preserve, as "nature preserve" is defined in section 1517.01 of the Revised Code.

SECTION 75. NUR STATE BOARD OF NURSING

General Services Fund Group

4K9 884-609	Operating Expenses	\$	5,232,776	\$	5,257,576
5P8 884-601	Nursing Special Issues	\$	5,000	\$	5,000
TOTAL GSF General Services					
Fund Group		\$	5,237,776	\$	5,262,576
TOTAL ALL BUDGET FUND GROUPS					
		\$	5,237,776	\$	5,262,576

NURSING SPECIAL ISSUES

The foregoing appropriation item 884-601, Nursing Special Issues (Fund 5P8), shall be used to pay the costs the Board of Nursing incurs in implementing section 4723.062 of the Revised Code.

SECTION 76. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

General Services Fund Group

4K9 890-609	Operating Expenses	\$	771,391	\$	801,480
TOTAL GSF General Services Fund Group					
		\$	771,391	\$	801,480
TOTAL ALL BUDGET FUND GROUPS					
		\$	771,391	\$	801,480

SECTION 77. OLA OHIOANA LIBRARY ASSOCIATION

Am. Sub. H. B. No. 95

2023

General Revenue Fund

GRF 355-501 Library Subsidy	\$	215,036	\$	215,036
TOTAL GRF General Revenue Fund	\$	215,036	\$	215,036
TOTAL ALL BUDGET FUND GROUPS	\$	215,036	\$	215,036

SECTION 78. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K9 894-609 Operating Expenses	\$	307,096	\$	312,656
TOTAL GSF General Services				
Fund Group	\$	307,096	\$	312,656
TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$	312,656

SECTION 79. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K9 885-609 Operating Expenses	\$	306,140	\$	324,391
TOTAL GSF General Services				
Fund Group	\$	306,140	\$	324,391
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$	324,391

**SECTION 80. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS,
AND PEDORTHICS**

General Services Fund Group

4K9973-609 Operating Expenses	\$	100,206	\$	102,395
TOTAL GSF General Services				
Fund Group	\$	100,206	\$	102,395
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$	102,395

SECTION 81. PBR STATE PERSONNEL BOARD OF REVIEW

General Revenue Fund

GRF 124-321 Operating	\$	1,029,430	\$	1,077,170
TOTAL GRF General Revenue Fund	\$	1,029,430	\$	1,077,170

General Services Fund Group

636 124-601 Transcript and Other	\$	25,000	\$	25,000
TOTAL GSF General Services				
Fund Group	\$	25,000	\$	25,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170

TRANSCRIPT AND OTHER

The foregoing appropriation item 124-601, Transcript and Other, may be used to defray the costs of producing an administrative record.

SECTION 82. PRX STATE BOARD OF PHARMACY**General Services Fund Group**

4A5 887-605	Drug Law Enforcement	\$	72,900	\$	75,550
4K9 887-609	Operating Expenses	\$	4,733,987	\$	4,914,594
TOTAL GSF General Services					
Fund Group		\$	4,806,887	\$	4,990,144
TOTAL ALL BUDGET FUND GROUPS					
		\$	4,806,887	\$	4,990,144

SECTION 83. PSY STATE BOARD OF PSYCHOLOGY**General Services Fund Group**

4K9 882-609	Operating Expenses	\$	564,544	\$	561,525
TOTAL GSF General Services					
Fund Group		\$	564,544	\$	561,525
TOTAL ALL BUDGET FUND GROUPS					
		\$	564,544	\$	561,525

SECTION 84. PUB OHIO PUBLIC DEFENDER COMMISSION**General Revenue Fund**

GRF 019-321	Public Defender Administration	\$	1,430,057	\$	1,351,494
GRF 019-401	State Legal Defense Services	\$	5,974,780	\$	5,943,572
GRF 019-403	Multi-County: State Share	\$	917,668	\$	930,894
GRF 019-404	Trumbull County - State Share	\$	299,546	\$	308,450
GRF 019-405	Training Account	\$	33,323	\$	33,323
GRF 019-501	County Reimbursement - Non-Capital Cases	\$	30,567,240	\$	32,630,070
GRF 019-503	County Reimbursement - Capital Cases	\$	693,000	\$	726,000
TOTAL GRF General Revenue Fund					
		\$	39,915,614	\$	41,923,803

General Services Fund Group

101 019-602	Inmate Legal Assistance	\$	52,698	\$	53,086
406 019-603	Training and Publications	\$	16,000	\$	16,000
407 019-604	County Representation	\$	255,789	\$	259,139
408 019-605	Client Payments	\$	285,533	\$	285,533
TOTAL GSF General Services					
Fund Group		\$	610,020	\$	613,758

Federal Special Revenue Fund Group

3S8 019-608	Federal Representation	\$	351,428	\$	355,950
TOTAL FED Federal Special Revenue					
Fund Group		\$	351,428	\$	355,950

State Special Revenue Fund Group

4C7 019-601	Multi-County: County Share	\$	1,923,780	\$	1,991,506
4X7 019-610	Trumbull County - County Share	\$	624,841	\$	658,764
574 019-606	Legal Services Corporation	\$	14,305,700	\$	14,305,800
TOTAL SSR State Special Revenue					
Fund Group		\$	16,854,321	\$	16,956,070

TOTAL ALL BUDGET FUND GROUPS \$ 57,731,383 \$ 59,849,581

JUVENILE REPRESENTATION

Of the foregoing appropriation item 019-401, State Legal Defense Services, at least \$250,000 in each fiscal year shall be used to provide legal services and assistance to juveniles.

INDIGENT DEFENSE OFFICE

The foregoing appropriation items 019-404, Trumbull County - State Share, and 019-610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

MULTI-COUNTY OFFICE

The foregoing appropriation items 019-403, Multi-County: State Share, and 019-601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

TRAINING ACCOUNT

The foregoing appropriation item 019-405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

FEDERAL REPRESENTATION

The foregoing appropriation item 019-608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

APPOINTED COUNSEL REIMBURSEMENT RATE FREEZE

In establishing maximum amounts that the state will reimburse counties for legal services pursuant to divisions (B) (8) and (9) of section 120.04 of the Revised Code for the period from July 1, 2003, through June 30, 2005, the state public defender shall not establish maximum amounts that exceed the maximum amounts in effect on March 1, 2003.

SECTION 85. DHS DEPARTMENT OF PUBLIC SAFETY

General Revenue Fund

GRF 763-403	Operating Expenses - EMA	\$	4,058,188	\$	4,058,188
GRF 763-507	Individual and Households	\$	48,750	\$	48,750
	Grants				
GRF 769-321	Food Stamp Trafficking	\$	800,000	\$	800,000
	Enforcement Operations				
TOTAL GRF General Revenue Fund		\$	4,906,938	\$	4,906,938
TOTAL ALL BUDGET FUND GROUPS		\$	4,906,938	\$	4,906,938

OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT

Of the foregoing appropriation item 763-403, Operating Expenses - EMA, \$200,000 in each fiscal year shall be used to fund the Ohio Task Force One - Urban Search and Rescue Unit and other urban search and rescue programs around the state to create a stronger search and rescue capability statewide.

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH

The foregoing appropriation item 763-507, Individual and Households Grants, shall be used to fund the state share of costs to provide grants to individuals and households in cases of disaster.

SECTION 86. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

5F6	870-622	Utility and Railroad Regulation	\$	30,622,222	\$	30,622,222
5F6	870-624	NARUC/NRRI Subsidy	\$	167,233	\$	167,233
5F6	870-625	Motor Transportation Regulation	\$	5,361,239	\$	5,361,239
558	870-602	Salvage and Exchange	\$	16,477	\$	4,000
TOTAL GSF General Services Fund Group			\$	36,167,171	\$	36,154,694

Federal Special Revenue Fund Group

3V3	870-604	Commercial Vehicle Information Systems/Networks	\$	870,000	\$	300,000
333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712
TOTAL FED Federal Special Revenue Fund Group			\$	8,495,669	\$	7,925,669

State Special Revenue Fund Group

4A3	870-614	Grade Crossing Protection Devices-State	\$	1,349,757	\$	1,349,757
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621
4S6	870-618	Hazardous Material Registration	\$	899,325	\$	614,325
4S6	870-621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986
559	870-605	Public Utilities Territorial Administration	\$	4,000	\$	4,000
560	870-607	Special Assessment	\$	100,000	\$	100,000
561	870-606	Power Siting Board	\$	337,210	\$	337,210
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000
661	870-612	Hazardous Materials Transportation	\$	900,000	\$	900,000
TOTAL SSR State Special Revenue Fund Group			\$	4,911,245	\$	4,341,245

Agency Fund Group

4G4	870-616	Base State Registration	\$	6,500,000	\$	6,500,000

Program			
TOTAL AGY Agency Fund Group	\$	6,500,000	\$ 6,500,000
TOTAL ALL BUDGET FUND GROUPS	\$	56,074,085	\$ 54,921,608
COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT			

The Commercial Vehicle Information Systems and Networks Fund is hereby created in the state treasury. The Commercial Vehicle Information Systems and Networks Fund shall receive funding from the United States Department of Transportation's Commercial Vehicle Intelligent Transportation System Infrastructure Deployment Program and shall be used to deploy the Ohio Commercial Vehicle Information Systems and Networks Project and to expedite and improve the safety of motor carrier operations through electronic exchange of data by means of on-highway electronic systems.

Notwithstanding section 4905.80 of the Revised Code, up to \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of the foregoing appropriation item 870-618, Hazardous Material Registration, may be used to pay the state share of the implementation of the Ohio Commercial Vehicle Information Systems and Networks Project.

Notwithstanding section 4923.12 of the Revised Code, up to \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of the foregoing appropriation item 870-620, Civil Forfeitures, may be used to pay the state share of the implementation of the Ohio Commercial Vehicle Information Systems and Networks Project.

SECTION 87. PWC PUBLIC WORKS COMMISSION

General Revenue Fund

GRF 150-904	Conservation General Obligation Debt Service	\$	9,743,500	\$	11,235,700
GRF 150-907	State Capital Improvements General Obligation Debt Service	\$	156,974,400	\$	152,069,700
TOTAL GRF General Revenue Fund		\$	166,717,900	\$	163,305,400
Clean Ohio Fund Group					
056 150-403	Clean Ohio Operating Expenses	\$	298,200	\$	304,400
TOTAL 056 Clean Ohio Fund Group		\$	298,200	\$	304,400
TOTAL ALL BUDGET FUND GROUPS		\$	167,016,100	\$	163,609,800

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150-904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.09 of the Revised Code during the period from July 1, 2003,

to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150-907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.08 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150-403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering sections 164.20 to 164.27 of the Revised Code.

SECTION 88. RAC STATE RACING COMMISSION

State Special Revenue Fund Group

5C4	875-607	Simulcast Horse Racing Purse	\$	19,730,799	\$	19,476,952
562	875-601	Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378
563	875-602	Standardbred Development Fund	\$	2,908,841	\$	3,161,675
564	875-603	Quarterhorse Development Fund	\$	1,000	\$	2,000
565	875-604	Racing Commission Operating	\$	4,485,777	\$	4,759,834
TOTAL SSR State Special Revenue Fund Group			\$	31,768,795	\$	32,042,839

Holding Account Redistribution Fund Group

R21	875-605	Bond Reimbursements	\$	212,900	\$	212,900
TOTAL 090 Holding Account Redistribution Fund Group			\$	212,900	\$	212,900
TOTAL ALL BUDGET FUND GROUPS			\$	31,981,695	\$	32,255,739

SECTION 89. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235-321	Operating Expenses	\$	3,336,284	\$	2,767,219
GRF 235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400
GRF 235-402	Sea Grants	\$	274,895	\$	274,895
GRF 235-403	Math/Science Teaching Improvement	\$	1,757,614	\$	1,757,614
GRF 235-404	College Readiness Initiatives	\$	3,152,603	\$	3,401,759
GRF 235-406	Articulation and Transfer	\$	733,200	\$	733,200
GRF 235-408	Midwest Higher Education	\$	82,500	\$	82,500

Am. Sub. H. B. No. 95

2029

	Compact				
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671
GRF 235-414	State Grants and Scholarship Administration	\$	1,219,719	\$	1,211,373
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720
GRF 235-418	Access Challenge	\$	67,568,622	\$	67,568,622
GRF 235-420	Success Challenge	\$	51,113,077	\$	56,113,077
GRF 235-428	Appalachian New Economy Partnership	\$	1,179,893	\$	1,147,895
GRF 235-451	Eminent Scholars	\$	0	\$	1,462,500
GRF 235-454	Research Challenge	\$	18,330,000	\$	18,330,000
GRF 235-455	EnterpriseOhio Network	\$	1,505,262	\$	1,465,650
GRF 235-474	Area Health Education Centers Program Support	\$	1,722,226	\$	1,676,670
GRF 235-477	Access Improvement Projects	\$	1,048,664	\$	1,080,124
GRF 235-501	State Share of Instruction	\$	1,534,189,277	\$	1,559,096,031
GRF 235-502	Student Support Services	\$	870,675	\$	848,908
GRF 235-503	Ohio Instructional Grants	\$	111,966,343	\$	115,325,333
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321
GRF 235-507	OhioLINK	\$	7,028,392	\$	7,028,392
GRF 235-508	Air Force Institute of Technology	\$	2,096,523	\$	2,053,860
GRF 235-509	Displaced Homemakers	\$	204,865	\$	199,743
GRF 235-510	Ohio Supercomputer Center	\$	4,208,472	\$	4,103,260
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863
GRF 235-513	Ohio University Voinovich Center	\$	311,977	\$	305,178
GRF 235-514	Central State Supplement	\$	11,039,203	\$	11,039,203
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,303,612	\$	3,212,271
GRF 235-518	Capitol Scholarship Programs	\$	245,000	\$	245,000
GRF 235-519	Family Practice	\$	5,529,432	\$	5,391,196
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289
GRF 235-521	The Ohio State University Glenn Institute	\$	311,977	\$	305,178
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179
GRF 235-526	Primary Care Residencies	\$	2,730,013	\$	2,661,762
GRF 235-527	Ohio Aerospace Institute	\$	1,933,607	\$	1,882,767
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646
GRF 235-534	Student Workforce Development Grants	\$	2,437,500	\$	2,437,500
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,565,885	\$	13,565,885
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,157,756	\$	11,157,756
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	8,696,866	\$	8,696,866

Am. Sub. H. B. No. 95

2030

GRF 235-539	Wright State University Clinical Teaching	\$	4,225,107	\$	4,225,107
GRF 235-540	Ohio University Clinical Teaching	\$	4,084,540	\$	4,084,540
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,200,945	\$	4,200,945
GRF 235-543	Ohio College of Podiatric Medicine Clinical Subsidy	\$	424,033	\$	424,033
GRF 235-547	School of International Business	\$	1,264,611	\$	1,232,996
GRF 235-549	Part-time Student Instructional Grants	\$	14,036,622	\$	14,457,721
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936
GRF 235-553	Dayton Area Graduate Studies Institute	\$	3,074,550	\$	2,993,937
GRF 235-554	Computer Science Graduate Education	\$	2,577,209	\$	2,512,779
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080
GRF 235-556	Ohio Academic Resources Network	\$	3,657,009	\$	3,803,289
GRF 235-558	Long-term Care Research	\$	230,906	\$	225,134
GRF 235-561	Bowling Green State University Canadian Studies Center	\$	121,586	\$	118,546
GRF 235-572	The Ohio State University Clinic Support	\$	1,400,394	\$	1,362,259
GRF 235-583	Urban University Programs	\$	5,692,236	\$	5,553,506
GRF 235-585	Ohio University Innovation Center	\$	41,596	\$	40,556
GRF 235-587	Rural University Projects	\$	1,224,510	\$	1,224,510
GRF 235-588	Ohio Resource Center for Mathematics, Science, and Reading	\$	853,262	\$	853,262
GRF 235-595	International Center for Water Resources Development	\$	137,352	\$	133,918
GRF 235-596	Hazardous Materials Program	\$	339,647	\$	331,156
GRF 235-599	National Guard Scholarship Program	\$	13,252,916	\$	14,578,208
GRF 235-909	Higher Education General Obligation Debt Service	\$	97,668,000	\$	130,967,600
TOTAL GRF General Revenue Fund		\$	2,443,493,342	\$	2,482,236,601
General Services Fund Group					
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000
456 235-603	Sales and Services	\$	500,002	\$	500,003
TOTAL GSF General Services Fund Group		\$	900,002	\$	900,003
Federal Special Revenue Fund Group					
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000
3N6 235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680
3T0 235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001

Am. Sub. H. B. No. 95

2031

312	235-609	Tech Prep	\$	183,850	\$	183,850
312	235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960
312	235-615	Professional Development	\$	523,129	\$	523,129
312	235-616	Workforce Investment Act Administration	\$	850,000	\$	850,000
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590
TOTAL FED Federal Special Revenue Fund Group			\$	10,439,814	\$	10,037,901
State Special Revenue Fund Group						
4E8	235-602	Higher Educational Facility Commission Administration	\$	20,000	\$	20,000
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000
TOTAL SSR State Special Revenue Fund Group			\$	2,149,870	\$	2,149,870
TOTAL ALL BUDGET FUND GROUPS			\$	2,456,983,028	\$	2,495,324,375

SECTION 89.01. OPERATING EXPENSES

Of the foregoing appropriation item 235-321, Operating Expenses, up to \$500,000 shall be used in fiscal year 2004 to support the activities of the Commission on Higher Education and the Economy. The Commission shall recommend a strategy to improve the quality and efficiency of Ohio's higher education system to increase effectiveness, eliminate unnecessary duplication, broaden the use of technology, and determine how higher education can most effectively support the state's economy, best prepare Ohio students for Third Frontier jobs, and add to the quality of life for Ohio's citizens. The Commission shall also study the ten year plan for higher education in the context of curricula, the number of higher education institutions, and the number and types of higher education degrees in relation to the needs created through the Third Frontier and other high technology economic initiatives. The Director of Budget and Management may transfer any unencumbered fiscal year 2004 balance to fiscal year 2005 to support the activities of the Commission.

Of the foregoing appropriation item 235-321, Operating Expenses, \$50,000 in each fiscal year shall be distributed to the Don't Laugh at Me Program, which shall use the funds to disseminate educational resources designed to establish a climate that reduces the emotional and physical harm caused by ridicule, bullying, and violence.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 235-401, Lease Rental Payments,

shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Board of Regents pursuant to leases and agreements made under section 154.21 of the Revised Code, but limited to the aggregate amount of \$463,377,100. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.21 of the Revised Code.

SEA GRANTS

The foregoing appropriation item 235-402, Sea Grants, shall be disbursed to the Ohio State University and shall be used to conduct research on fish in Lake Erie.

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT

Appropriation item 235-403, Math/Science Teaching Improvement, shall be used by the Board of Regents to support programs such as OSI - Discovery designed to raise the quality of mathematics and science teaching in primary and secondary education.

Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$217,669 in each fiscal year shall be distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in fiscal year 2005 shall be distributed to the Ohio Mathematics and Science Coalition.

COLLEGE READINESS INITIATIVES

Appropriation item 235-404, College Readiness Initiatives, shall be used by the Board of Regents to support programs designed to improve the academic preparation and increase the number of students that enroll and succeed in higher education.

MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235-408, Midwest Higher Education Compact, shall be distributed by the Board of Regents pursuant to section 3333.40 of the Revised Code.

INFORMATION SYSTEM

The foregoing appropriation item 235-409, Information System, shall be used by the Board of Regents to operate the higher education information data system known as the Higher Education Information System.

SECTION 89.02. JOBS CHALLENGE

Funds appropriated to appropriation item 235-415, Jobs Challenge, shall be distributed to state-assisted community and technical colleges, regional

campuses of state-assisted universities, and other organizationally distinct and identifiable member campuses of the EnterpriseOhio Network in support of noncredit job-related training. In each fiscal year, \$2,770,773 shall be distributed as performance grants to EnterpriseOhio Network campuses based upon each campus's documented performance according to criteria established by the Board of Regents for increasing training and related services to businesses, industries, and public sector organizations.

Of the foregoing appropriation item 235-415, Jobs Challenge, \$2,819,345 in each fiscal year shall be allocated to the Targeted Industries Training Grant Program to attract, develop, and retain business and industry strategically important to the state's economy.

Also, in each fiscal year, \$3,758,182 shall be allocated to the Higher Skills Incentives Program to promote and deliver coordinated, comprehensive training to local employers and to reward EnterpriseOhio Network campuses for increasing the amount of non-credit skill upgrading services provided to Ohio employers and employees. The funds shall be distributed to campuses in proportion to each campus's share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that this Higher Skills Incentives component of the Jobs Challenge Program reward campus noncredit job-related training efforts in the same manner that the Research Challenge Program rewards campuses for their ability to obtain sponsored research revenues.

OHIO LEARNING NETWORK

Appropriation item 235-417, Ohio Learning Network, shall be used by the Board of Regents to support the continued implementation of the Ohio Learning Network, a statewide electronic collaborative effort designed to promote degree completion of students, workforce training of employees, and professional development through the use of advanced telecommunications and distance education initiatives.

ACCESS CHALLENGE

In each fiscal year, the foregoing appropriation item 235-418, Access Challenge, shall be distributed to Ohio's state-assisted access colleges and universities. For the purposes of this allocation, "access campuses" includes state-assisted community colleges, state community colleges, technical colleges, Shawnee State University, Central State University, Cleveland State University, the regional campuses of state-assisted universities, and, where they are organizationally distinct and identifiable, the community-technical colleges located at the University of Cincinnati, Youngstown State University, and the University of Akron.

The purpose of Access Challenge is to reduce the student share of costs for resident undergraduates enrolled in lower division undergraduate courses at Ohio's access campuses. The long-term goal is to make the student share of costs for these students equivalent to the student share of costs for resident undergraduate students enrolled throughout Ohio's public colleges and universities. Access Challenge appropriations shall be used in both years of the biennium to sustain, as much as possible, the tuition restraint or tuition reduction that was achieved with Access Challenge allocations in prior years.

In fiscal year 2004, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2005, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2002 and 2003 all-terms subsidy-eligible General Studies FTEs.

For the purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: the Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami University, the University of Cincinnati, the University of Akron, and Wright State University.

SUCCESS CHALLENGE

The foregoing appropriation item 235-420, Success Challenge, shall be used by the Board of Regents to promote degree completion by students enrolled at a main campus of a state-assisted university.

Of the foregoing appropriation item 235-420, Success Challenge, 71.77 per cent of the appropriation in fiscal year 2004 and 74.29 per cent of the appropriation in fiscal year 2005 shall be distributed to state-assisted university main campuses in proportion to each campus's share of the total statewide bachelor's degrees granted by university main campuses to "at-risk" students. In fiscal years 2004 and 2005, an "at-risk" student means any undergraduate student who was eligible to receive an Ohio Instructional Grant during the past ten years. An eligible institution shall not receive its share of this distribution until it has submitted a plan that addresses how the subsidy will be used to better serve at-risk students and increase their likelihood of successful completion of a bachelor's degree program. The

Board of Regents shall disseminate to all state-supported institutions of higher education all such plans submitted by institutions that received Success Challenge funds.

Of the foregoing appropriation item 235-420, Success Challenge, 28.23 per cent of the appropriation in fiscal year 2004, and 25.71 per cent of the appropriation in fiscal year 2005 shall be distributed to university main campuses in proportion to each campus's share of the total bachelor's degrees granted by university main campuses to undergraduate students who completed their bachelor's degrees in a "timely manner" in the previous fiscal year. For the purposes of this section, "timely manner" means the normal time it would take for a full-time degree-seeking undergraduate student to complete the student's degree. Generally, for such students pursuing a bachelor's degree, "timely manner" means four years. Exceptions to this general rule shall be permitted for students enrolled in programs specifically designed to be completed in a longer time period. The Board of Regents shall collect data to assess the timely completion statistics by university main campuses.

APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235-428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

EMINENT SCHOLARS

The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to establish an Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Ohio Eminent Scholars endowed chairs will allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which our technology and commercialization efforts are built. Endowment grants of approximately \$750,000 to state colleges and universities and nonprofit Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may be made in accordance with a plan established by the Ohio Board of Regents. Matching nonstate gifts in science and technology programs shall be \$750,000. The grants shall have

as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each will assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people and collaborate with other state technology programs and program recipients.

RESEARCH CHALLENGE

The foregoing appropriation item 235-454, Research Challenge, shall be used to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued pursuant to section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Challenge Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional allocation of state dollars received through the program. The institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support. Each institutional plan for the investment of Research Challenge moneys shall report on existing, planned, and/or possible relationships with other State of Ohio science and technology programs and funding recipients in order to further ongoing statewide science and technology collaboration objectives. The Board of Regents shall submit a biennial report of progress to the General Assembly.

ENTERPRISEOHIO NETWORK

The foregoing appropriation item 235-455, EnterpriseOhio Network, shall be allocated by the Board of Regents to continue increasing the capabilities of the EnterpriseOhio Network to meet the ongoing training needs of Ohio employers. Funds shall support multicampus collaboration, best practice dissemination, and capacity building projects. The Regents Advisory Committee for Workforce Development, in its advisory role, shall advise in the development of plans and activities.

Of the foregoing appropriation item 235-455, EnterpriseOhio Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 2005 shall be used by the Dayton Business/Sinclair College Jobs Profiling Program.

SECTION 89.03. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235-474, Area Health Education Centers Program Support, shall be used by the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$174,135 in fiscal year 2004 and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio University College of Osteopathic Medicine to operate a mobile health care unit to serve the southeastern area of the state. Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) project.

ACCESS IMPROVEMENT PROJECTS

The foregoing appropriation item 235-477, Access Improvement Projects, shall be used by the Board of Regents to support innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students.

Of the foregoing appropriation item 235-477, Access Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in fiscal year 2005 shall be distributed to the Ohio Appalachian Center for Higher Education at Shawnee State University. The board of directors of the center shall consist of the presidents of Shawnee State University, Ohio University, Belmont Technical College, Hocking Technical College, Jefferson Community College, Muskingum Area Technical College, Rio Grande Community College, Southern State Community College, and Washington State Community College; the dean of one of the Salem, Tuscarawas, and East Liverpool regional campuses of Kent State University, as designated by the president of Kent State University; and a representative of the Board of Regents designated by the Chancellor.

Of the foregoing appropriation item 235-477, Access Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in fiscal year 2005 shall

be distributed to Miami University for the Student Achievement in Research and Scholarship (STARS) Program.

SECTION 89.04. STATE SHARE OF INSTRUCTION

As soon as practicable during each fiscal year of the 2003-2005 biennium in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment to the Board of Regents.

The Board of Regents shall establish procedures required by the system of formulas set out below and for the assignment of individual institutions to categories described in the formulas. The system of formulas establishes the manner in which aggregate expenditure requirements shall be determined for each of the three components of institutional operations. In addition to other adjustments and calculations described below, the subsidy entitlement of an institution shall be determined by subtracting from the institution's aggregate expenditure requirements income to be derived from the local contributions assumed in calculating the subsidy entitlements. The local contributions for purposes of determining subsidy support shall not limit the authority of the individual boards of trustees to establish fee levels.

The General Studies and Technical models shall be adjusted by the Board of Regents so that the share of state subsidy earned by those models is not altered by changes in the overall local share. A lower-division fee differential shall be used to maintain the relationship that would have occurred between these models and the baccalaureate models had an assumed share of 37 per cent been funded.

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

(A) AGGREGATE EXPENDITURE PER FULL-TIME
EQUIVALENT STUDENT

(1) INSTRUCTION AND SUPPORT SERVICES

MODEL	FY 2004	FY 2005
General Studies I	\$ 4,947	\$ 4,983
General Studies II	\$ 5,323	\$ 5,336
General Studies III	\$ 6,883	\$ 7,120
Technical I	\$ 5,913	\$ 6,137
Technical III	\$ 9,522	\$ 10,026

2039

Baccalaureate I	\$ 7,623	\$ 7,721
Baccalaureate II	\$ 8,584	\$ 8,864
Baccalaureate III	\$ 12,559	\$ 12,932
Masters and Professional I	\$ 15,867	\$ 18,000
Masters and Professional II	\$ 20,861	\$ 22,141
Masters and Professional III	\$ 27,376	\$ 28,190
Medical I	\$ 30,867	\$ 31,819
Medical II	\$ 41,495	\$ 41,960
MPD I	\$ 14,938	\$ 14,966

(2) STUDENT SERVICES

For this purpose, FTE counts shall be weighted to reflect differences among institutions in the numbers of students enrolled on a part-time basis. The student services subsidy per FTE shall be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all models.

(B) PLANT OPERATION AND MAINTENANCE (POM)

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY

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

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

The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995.

Only 50 per cent of the space permanently taken out of operation in fiscal year 2004 or fiscal year 2005 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory.

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

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

	FY 2004	FY 2005
Classrooms	\$5.80	\$6.04
Laboratories	\$7.22	\$7.53

Offices	\$5.80	\$6.04
Audio Visual Data Processing	\$7.22	\$7.53
Storage	\$2.57	\$2.68
Circulation	\$7.31	\$7.62
Other	\$5.80	\$6.04

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

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

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

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

	FY 2004	FY 2005
General Studies I	\$ 552	\$ 560
General Studies II	\$ 696	\$ 705
General Studies III	\$1,608	\$1,651
Technical I	\$ 777	\$ 806
Technical III	\$1,501	\$1,570
Baccalaureate I	\$ 700	\$ 706
Baccalaureate II	\$1,250	\$1,232
Baccalaureate III	\$1,520	\$1,458
Masters and Professional I	\$1,258	\$1,301
Masters and Professional II	\$2,817	\$2,688
Masters and Professional III	\$3,832	\$3,712
Medical I	\$2,663	\$2,669
Medical II	\$3,837	\$4,110
MPD I	\$1,213	\$1,233

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

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS

The calculation of the core subsidy entitlement shall consist of the

following components:

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

(b) In calculating the core subsidy entitlements for Medical II models only, the Board of Regents shall use the following count of FTE students:

(i) For those medical schools whose current year enrollment, including students repeating terms, is below the base enrollment, the Medical II FTE enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment including students repeating terms, where the base enrollment is:

The Ohio State University	1010
University of Cincinnati	833
Medical College of Ohio at Toledo	650
Wright State University	433
Ohio University	433
Northeastern Ohio Universities College of Medicine	433

(ii) For those medical schools whose current year enrollment, excluding students repeating terms, is equal to or greater than the base enrollment, the Medical II FTE enrollment shall equal the base enrollment plus the FTE for repeating students.

(iii) Students repeating terms may be no more than five per cent of current year enrollment.

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

The POM subsidy for each campus shall equal the greater of the square-foot-based subsidy or the activity-based POM subsidy component of the core subsidy entitlement.

(d) The state share of instruction provided for doctoral students shall be based on a fixed percentage of the total appropriation. In each fiscal year of the biennium not more than 10.34 per cent of the total state share of instruction shall be reserved to implement the recommendations of the Graduate Funding Commission. It is the intent of the General Assembly that the doctoral reserve not exceed 10.34 per cent of the total state share of

instruction to implement the recommendations of the Graduate Funding Commission. The Board of Regents may reallocate up to two per cent in each fiscal year of the reserve among the state-assisted universities on the basis of a quality review as specified in the recommendations of the Graduate Funding Commission. No such reallocation shall occur unless the Board of Regents, in consultation with representatives of state-assisted universities, determines that sufficient funds are available for this purpose.

The amount so reserved shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE

In addition to and after the other adjustment noted above, in fiscal year 2004, no campus shall receive a state share of instruction allocation that is less than 100 per cent of the prior year's state share of instruction amount. In fiscal year 2005, no campus shall receive a state share of instruction allocation that is less than 99 per cent of what that campus' state share of instruction would have been had the allocation in fiscal year 2004 been not less than 99 per cent, rather than 100 per cent, of the prior year's state share of instruction amount.

(3) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. No. 748 of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, and H.B. No. 675 of the 124th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235-552, Capital Component, in each fiscal year.

(D) REDUCTIONS IN EARNINGS

If the total state share of instruction earnings in any fiscal year exceed the total appropriations available for such purposes, the Board of Regents shall proportionately reduce the state share of instruction earnings for all campuses by a uniform percentage so that the system wide sum equals

available appropriations.

(E) EXCEPTIONAL CIRCUMSTANCES

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

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation line item 235-501, State Share of Instruction, before the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation line item 235-501, State Share of Instruction, after the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

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

(H) LAW SCHOOL SUBSIDY

The state share of instruction to state-supported universities for students enrolled in law schools in fiscal year 2004 and fiscal year 2005 shall be calculated by using the number of subsidy-eligible FTE law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy-eligible FTE law school students at the institution in the fiscal year, whichever is less.

SECTION 89.05. HIGHER EDUCATION - BOARD OF TRUSTEES

Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus

undergraduate courses of study and such master's degree courses of study as may be approved by the Board of Regents.

In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies by income from charges to students. Each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. Except for the board of trustees of Miami University, in implementing the pilot tuition restructuring plan recognized by this act, a tuition surcharge shall be paid by all students who are not residents of Ohio.

The boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges shall limit in-state undergraduate instructional and general fee increases for an academic year over the amounts charged in the prior academic year to no more than six per cent. In addition to the six per cent main campus in-state undergraduate instructional and general fee increase limit established in this section, the Board of Trustees of The Ohio State University may authorize an additional university main campus in-state undergraduate instructional and general fee increase of three per cent for academic years 2003-2004 and 2004-2005. Except for the board of trustees of the Ohio State University, the boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges shall not authorize combined instructional and general fee increases of more than six per cent in a single vote. The board of trustees of The Ohio State University shall not authorize combined instructional and general fee increases of more than nine per cent in a single vote. The boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges may authorize an additional 3.9 per cent increase in in-state undergraduate instructional and general fees in a separate vote. The additional increase shall only be used for providing scholarships to low-income students, to be known as Access

Scholarship Grants, to provide additional or improved technology services to students. These fee increase limitations apply even if an institutional board of trustees has, prior to the effective date of this section, voted to assess a higher fee for the 2003-2004 academic year. These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this act with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Board of Regents to the Controlling Board. These limitations may also be modified by the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Board of Regents.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees. This prohibition is not intended to limit the authority of the board of trustees of Miami University in providing financial assistance to students in implementing the pilot tuition restructuring plan recognized by this act.

Except for Miami University, in implementing the pilot tuition restructuring plan recognized by this act, each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

In providing the appropriations in support of instructional services at state-assisted institutions of higher education and the appropriations for other instruction it is the intent of the General Assembly that faculty members shall devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Board of Regents.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

The General Assembly recognizes the pilot tuition restructuring plan of the board of trustees of Miami University for undergraduate students enrolled at the Oxford campus. The purpose of this plan is to make higher education more affordable for moderate income Ohioans, encourage high-achieving Ohio students to stay in Ohio rather than attending colleges in other states, and provide incentives for Ohio students to major in areas crucial to Ohio's priorities and future economic development.

Notwithstanding any limit on in-state undergraduate instructional and general fees imposed by this act, the General Assembly recognizes that the plan will provide that all undergraduate students enrolled at the Oxford campus will be charged combined instructional and general fees in an amount equal to the nonresident instructional and general fees and tuition surcharge. For both resident student first enrolling on or after the summer term of 2003 and resident students who enrolled prior to this date, any increases in fees approved thereafter by the board of trustees are subject to any instructional and general fee caps imposed by the General Assembly.

The General Assembly recognizes that the plan provides that all students who are residents of Ohio will receive student financial assistance in an amount to be determined by the University.

The General Assembly recognizes that the plan provides that, for any resident student who enrolls at the Miami University Oxford campus prior to August 2004, the plan will have no direct financial impact except for paper changes on invoices so that such a student would only pay instructional and general fees in an amount equivalent to what the student was charged in the preceding year in addition to any increases in fees approved by the board of trustees.

SECTION 89.06. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235-502, Student Support Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

OHIO INSTRUCTIONAL GRANTS

Notwithstanding section 3333.12 of the Revised Code, in lieu of the tables in that section, instructional grants for all full-time students shall be made for fiscal year 2004 using the tables under this heading.

The tables under this heading prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. The grant amount for a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under these tables shall be a percentage of the maximum prescribed in the applicable table. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under the table. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under the table.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution Table of Grants Maximum Grant \$5,466 Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288

\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178
\$33,001 - \$34,000	888	984	1,080	1,344	1,626
\$34,001 - \$35,000	444	888	984	1,080	1,344
\$35,001 - \$36,000	--	444	888	984	1,080
\$36,001 - \$37,000	--	--	444	888	984
\$37,001 - \$38,000	--	--	--	444	888
\$38,001 - \$39,000	--	--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution					
	Table of Grants					
	Maximum Grant \$5,466					
	Number of Dependents					
	0	1	2	3	4	5 or more
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662
\$25,301 - \$30,300	--	324	438	546	1,014	1,476
\$30,301 - \$35,300	--	198	216	270	324	792

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state

board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution Table of Grants Maximum Grant \$4,632					
Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292
\$32,001 - \$33,000	852	906	1,134	1,416	1,854
\$33,001 - \$34,000	750	852	906	1,134	1,416
\$34,001 - \$35,000	372	750	852	906	1,134
\$35,001 - \$36,000	--	372	750	852	906
\$36,001 - \$37,000	--	--	372	750	852
\$37,001 - \$38,000	--	--	--	372	750
\$38,001 - \$39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution Table of Grants Maximum Grant \$4,632						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or

						more
Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560
\$22,301 - \$25,300	--	372	456	858	1,242	1,416
\$25,301 - \$30,300	--	282	372	456	858	1,242
\$30,301 - \$35,300	--	168	180	228	282	666

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants Maximum Grant \$2,190 Number of Dependents					
Gross Income	1	2	3	4	5 or more
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740
\$25,001 - \$28,000	648	864	1,080	1,320	1,542
\$28,001 - \$31,000	522	648	864	1,080	1,320
\$31,001 - \$32,000	420	522	648	864	1,080
\$32,001 - \$33,000	384	420	522	648	864

\$33,001 - \$34,000	354	384	420	522	648
\$34,001 - \$35,000	174	354	384	420	522
\$35,001 - \$36,000	--	174	354	384	420
\$36,001 - \$37,000	--	--	174	354	384
\$37,001 - \$38,000	--	--	--	174	354
\$38,001 - \$39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants Maximum Grant \$2,190						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674
\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494
\$11,801 - \$13,300	384	774	858	954	1,128	1,302
\$13,301 - \$14,800	354	744	774	858	954	1,128
\$14,801 - \$16,300	174	678	744	774	858	954
\$16,301 - \$19,300	--	450	630	702	774	858
\$19,301 - \$22,300	--	216	402	594	654	732
\$22,301 - \$25,300	--	174	216	402	594	654
\$25,301 - \$30,300	--	132	174	216	402	594
\$30,301 - \$35,300	--	78	84	102	132	312

The foregoing appropriation item 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item. The amounts transferred are hereby appropriated.

WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

SECTION 89.07. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235-508, Air Force Institute of Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio. Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$1,317,173 in fiscal year 2004 and \$1,315,929 in fiscal year 2005 shall be used for research projects that connect the Air Force Research Laboratories with university partners. The institute shall provide annual reports to the Third Frontier Commission, that discuss existing, planned, or possible collaborations between programs and funding recipients related to technology, research development, commercialization, and support for Ohio's economic development.

Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$477,237 in fiscal year 2004 and \$476,786 in fiscal year 2005 shall be used to match federal dollars to support the Wright Brothers Institute. Funds shall be used by the Wright Brothers Institute to create or expand Ohio-based technology and commercial development collaborations between industry, academia, and government in areas which include carbon nano-tube materials technology, genome-based biotechnology, knowledge-creation information technology, cognitive systems modeling and engineering, or other related projects as deemed appropriate by the institute.

Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$302,113 in fiscal year 2004 and \$261,145 in fiscal year 2005 shall be used to directly support collaborative research between academia, industry, and the Air Force for Wright Brothers Institute Nanomaterials and

Advanced Data Management and Analysis.

OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the center shall be established by a governance committee, representative of Ohio's research universities and private industry, to be appointed by the Chancellor of the Board of Regents and established for this purpose.

The Ohio Supercomputer Center shall report on expanding solutions-oriented, computational science services to industrial and other customers, including alignment programs and recipients, and develop a plan for a computational science initiative in collaboration with the Wright Centers of Innovation program and the Computer Science Graduate Studies Program.

COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235-511, Cooperative Extension Service, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used for additional staffing for county agents for expanded 4-H activities. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used by the Cooperative Extension Service, through the Enterprise Center for Economic Development in cooperation with other agencies, for a public-private effort to create and operate a small business economic development program to enhance the development of alternatives to the growing of tobacco, and implement, through applied research and demonstration, the production and marketing of other high-value crops and value-added products. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 2005 shall be used for farm labor mediation and education programs. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in fiscal year 2005 shall be used to support the Ohio State University Marion Enterprise Center.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in fiscal year 2005 shall be used to support the Ohio Watersheds Initiative.

CENTRAL STATE SUPPLEMENT

The foregoing appropriation item 235-514, Central State Supplement, shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes.

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION

The Board of Regents, in consultation with the state-assisted medical colleges, shall develop performance standards for medical education. Special emphasis in the standards shall be placed on attempting to ensure that at least 50 per cent of the aggregate number of students enrolled in state-assisted medical colleges continue to enter residency as primary care physicians. Primary care physicians are general family practice physicians, general internal medicine practitioners, and general pediatric care physicians. The Board of Regents shall monitor medical school performance in relation to their plans for reaching the 50 per cent systemwide standard for primary care physicians.

SECTION 89.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE

The foregoing appropriation item 235-515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Board of Regents in accordance with agreements entered into as provided for by section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE RESIDENCIES

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation items 235-519, Family Practice, 235-525, Geriatric Medicine, and 235-526, Primary Care Residencies.

SHAWNEE STATE SUPPLEMENT

The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

- (A) To allow Shawnee State University to keep its undergraduate fees

below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.

POLICE AND FIRE PROTECTION

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 each year. Funds shall be distributed according to the methodology employed by the Board of Regents in the previous biennium.

PRIMARY CARE RESIDENCIES

The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

OHIO AEROSPACE INSTITUTE

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

ACADEMIC SCHOLARSHIPS

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

STUDENT CHOICE GRANTS

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item to maintain grant award amounts in fiscal year 2005 equal to the awards provided in fiscal year 2004. The amounts transferred are hereby appropriated.

STUDENT WORKFORCE DEVELOPMENT GRANTS

The foregoing appropriation item 235-534, Student Workforce Development Grants, shall be used to support the Student Workforce Development Grant Program. Of the appropriated funds available, the Board of Regents shall distribute grants to each eligible student in an academic year. The size of each grant award shall be determined by the Board of Regents based on the amount of funds available for the program.

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the 2003-2005 biennium for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the center. The Ohio Agricultural Research and Development Center, in conjunction with the Third Frontier Commission, shall provide for an independently evaluated self-study of research excellence and commercial relevance in a manner to be prescribed by the Third Frontier Commission.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$470,164 in fiscal year 2004 and \$458,410 in fiscal year 2005 shall be used to purchase equipment.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$827,141 in fiscal year 2004 and \$806,463 in fiscal year 2005 shall be distributed to the Piketon Agricultural Research and Extension Center.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$217,669 in fiscal year 2004 and \$212,227 in fiscal year 2005 shall be distributed to the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio State University Medical College in cooperation with the Ohio State University College of Agriculture.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$43,534 in fiscal year 2004 and \$42,445 in fiscal year 2005 shall be used to support the Ohio Berry Administrator.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$87,067 in fiscal year 2004 and \$84,890

in fiscal year 2005 shall be used for the development of agricultural crops and products not currently in widespread production in Ohio, in order to increase the income and viability of family farmers.

STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical College of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

SCHOOL OF INTERNATIONAL BUSINESS

Of the foregoing appropriation item 235-547, School of International Business, \$901,975 in fiscal year 2004 and \$879,426 in fiscal year 2005 shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located at the University of Akron. It may confer with Kent State University, Youngstown State University, and Cleveland State University as to the curriculum and other matters regarding the school.

Of the foregoing appropriation item 235-547, School of International Business, \$181,318 in fiscal year 2004 and \$176,785 in fiscal year 2005 shall be used by the University of Toledo College of Business for expansion of its international business programs.

Of the foregoing appropriation item 235-547, School of International Business, \$181,318 in fiscal year 2004 and \$176,785 in fiscal year 2005 shall be used to support the Ohio State University BioMEMS program.

PART-TIME STUDENT INSTRUCTIONAL GRANTS

The foregoing appropriation item 235-549, Part-time Student Instructional Grants, shall be used to support a grant program for part-time undergraduate students who are Ohio residents and who are enrolled in degree granting programs.

Eligibility for participation in the program shall include degree granting educational institutions that hold a certificate of registration from the State Board of Career Colleges and Schools, and nonprofit institutions that have a

certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, as well as state-assisted colleges and universities. Grants shall be given to students on the basis of need, as determined by the college, which, in making these determinations, shall give special consideration to single-parent heads-of-household and displaced homemakers who enroll in an educational degree program that prepares the individual for a career. In determining need, the college also shall consider the availability of educational assistance from a student's employer. It is the intent of the General Assembly that these grants not supplant such assistance.

SECTION 89.09. CAPITAL COMPONENT

The foregoing appropriation item 235-552, Capital Component, shall be used by the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. No. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. The sum of all such amounts shall be transferred from appropriation item 235-501, State Share of Instruction, to appropriation item 235-552, Capital Component.

DAYTON AREA GRADUATE STUDIES INSTITUTE

The foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, shall be used by the Board of Regents to support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of three universities in the Dayton area: Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

Of the foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, \$497,666 in fiscal year 2004 and \$417,053 in fiscal year 2005 shall be used by the Miami Valley Economic Development Research Corporation to support collaborative research between academia, industry, and the Air Force for the Wright Brothers Institute and related initiatives in

nanomaterials and advanced data management and analysis.

COMPUTER SCIENCE GRADUATE EDUCATION

The foregoing appropriation item 235-554, Computer Science Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs in computer science at state-assisted universities. Up to \$174,135 in fiscal year 2004, and up to \$169,782 in fiscal year 2005, may be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Ohio Supercomputer Center.

OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

LONG-TERM CARE RESEARCH

The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER

The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 89.10. URBAN UNIVERSITY PROGRAMS

Of the foregoing appropriation item 235-583, Urban University Programs, universities receiving funds that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from

continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Programs, \$301,218 in fiscal year 2004 and \$293,300 in fiscal year 2005 shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Programs, \$142,682 in fiscal year 2004 and \$138,932 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education, and health disciplines.

Of the foregoing appropriation item 235-583, Urban University Programs, \$206,097 in fiscal year 2004 and \$200,679 in fiscal year 2005 shall be used to support the Kent State University Learning and Technology Project. This project is a kindergarten through university collaboration between schools surrounding Kent's eight campuses in northeast Ohio, and corporate partners who will assist in development and delivery.

The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; and hardware and software to schools that will make possible the delivery of instruction to pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This shall involve the delivery of low-bandwidth streaming video and web-based technologies in a distributed instructional model.

Of the foregoing appropriation item 235-583, Urban University Programs, \$79,267 in fiscal year 2004 and \$77,184 in fiscal year 2005 shall be used to support the Ameritech Classroom/Center for Research at Kent State University.

Of the foregoing appropriation item 235-583, Urban University Programs, \$792,682 in fiscal year 2004 and \$771,843 in fiscal year 2005 shall be used to support the Polymer Distance Learning Project at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$39,634 in fiscal year 2004 and \$38,592 in fiscal year 2005 shall be distributed to the Kent State University/Cleveland Design Center program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$198,170 in fiscal year 2004 and \$192,960 in fiscal year 2005 shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$11,892 in fiscal year 2004 and \$11,576 in fiscal year 2005 shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,744,404 in fiscal year 2004 and \$1,698,546 in fiscal year 2005 shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,744,404 in fiscal year 2004 and \$1,698,546 in fiscal year 2005 shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$165,893 in fiscal year 2004 and \$165,674 in fiscal year 2005 shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235-583, Urban University Programs, \$165,893 in fiscal year 2004 and \$165,674 in fiscal year 2005 shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University.

Notwithstanding the other earmarks in this section, of the foregoing appropriation item 235-583, Urban University Programs, \$100,000 in each fiscal year shall be used to support the Medina County University Center. The other earmarks of appropriation item 235-583, Urban University Programs, shall be proportionately reduced.

Of the foregoing appropriation item 235-583, Urban University Programs, \$100,000 in each fiscal year shall be used to support the Medina

Learning Center.

RURAL UNIVERSITY PROJECTS

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive \$281,391 in fiscal year 2004 and \$281,391 in fiscal year 2005, Miami University shall receive \$261,694 in fiscal year 2004 and \$261,694 in fiscal year 2005, and Ohio University shall receive \$613,397 in fiscal year 2004 and \$613,397 in fiscal year 2005. These funds shall be used to support the Institute for Local Government Administration and Rural Development at Ohio University, the Center for Public Management and Regional Affairs at Miami University, and the Center for Policy Analysis and Public Service at Bowling Green State University.

A small portion of the funds provided to Ohio University shall also be used for the Institute for Local Government Administration and Rural Development State and Rural Policy Partnership with the Governor's Office of Appalachia and the Appalachian delegation of the General Assembly.

Of the foregoing appropriation item 235-587, Rural University Projects, \$17,007 in fiscal year 2004 and \$17,007 in fiscal year 2005 shall be used to support the Washington State Community College day care center.

Of the foregoing appropriation item 235-587, Rural University Projects, \$51,021 in fiscal year 2004 and \$51,021 in fiscal year 2005 shall be used to support the COAD/ILGARD/GOA Appalachian Leadership Initiative.

SECTION 89.11. OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, AND READING

The foregoing appropriation item 235-588, Ohio Resource Center for Mathematics, Science, and Reading, shall be used to support a resource center for mathematics, science, and reading to be located at a state-assisted university for the purpose of identifying best educational practices in primary and secondary schools and establishing methods for communicating them to colleges of education and school districts. The Ohio Resource Center for Mathematics, Science, and Reading shall not make available resources that are inconsistent with the K-12 science standards and policies as adopted by the State Board of Education.

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT

The foregoing appropriation item 235-595, International Center for Water Resources Development, shall be used to support the International Center for Water Resources Development at Central State University. The center shall develop methods to improve the management of water resources

for Ohio and for emerging nations.

HAZARDOUS MATERIALS PROGRAM

The foregoing appropriation item 235-596, Hazardous Materials Program, shall be disbursed to Cleveland State University for the operation of a program to certify firefighters for the handling of hazardous materials. Training shall be available to all Ohio firefighters.

Of the foregoing appropriation item 235-596, Hazardous Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and Leadership in Public Service at Cleveland State University. These funds shall be distributed by the Board of Regents and shall be used by the center targeted toward increasing the role of special populations in public service and not-for-profit organizations. The primary purpose of the center is to study issues in public service and to guide strategies for attracting new communities into public service occupations by bringing together a cadre of researchers, scholars and professionals representing the public administration, social behavioral, and education disciplines.

NATIONAL GUARD SCHOLARSHIP PROGRAM

The Board of Regents shall disburse funds from appropriation item 235-599, National Guard Scholarship Program, at the direction of the Adjutant General.

* PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the 2003-2005 biennium to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Board of Regents, unless approved in a previous biennium.

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235-909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.04 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 89.12. SALES AND SERVICES

The Board of Regents is authorized to charge and accept payment for the provision of goods and services generated by the Higher Education

Information System. Such charges shall be reasonably related to the cost of producing the goods and services. No charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Board. All revenues received by the Board of Regents shall be deposited into Fund 456, and may be used by the Board of Regents to pay for the costs of producing the goods and services.

OHIO HIGHER EDUCATIONAL FACILITY COMMISSION SUPPORT

The foregoing appropriation item 235-602, Higher Educational Facility Commission Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the chancellor, the Director of Budget and Management shall transfer up to \$20,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

PHYSICIAN LOAN REPAYMENT

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code.

NURSING LOAN PROGRAM

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2004 and \$167,580 in fiscal year 2005 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 89.13. SCIENCE AND TECHNOLOGY COLLABORATION

The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-508, Air Force Institute of Technology;

235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds. All programs listed above shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONEYS

Notwithstanding any provision of law to the contrary, all repayments of Research Facility Investment Fund loans shall be made to the Bond Service Trust Fund. All Research Facility Investment Fund loan repayments made prior to the effective date of this section shall be transferred by the Director of Budget and Management to the Bond Service Trust Fund within sixty days of the effective date of this section.

Campuses shall make timely repayments of Research Facility Investment Fund loans, according to the schedule established by the Board of Regents. In the case of late payments, the Board of Regents may deduct from an institution's periodic subsidy distribution an amount equal to the amount of the overdue payment for that institution, transfer such amount to the Bond Service Trust Fund, and credit the appropriate institution for the repayment.

VETERANS' PREFERENCES

The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.

SECTION 89.14. STUDY OF CO-LOCATED INSTITUTIONS

The Board of Regents shall review the operation and effectiveness of co-located university branch campuses and technical colleges, with particular attention to improved responsiveness to community needs and improved transfer of coursework. The Board of Regents shall report its findings and recommendations to the General Assembly not later than May 15, 2004.

SECTION 89.15. On the effective date of this section, the Board of Regents shall recognize the conversion of Belmont Technical College from a technical college under Chapter 3358. of the Revised Code to a community college under Chapter 3354. of the Revised Code, and on and after the effective date of this section Belmont Technical College shall be known as Belmont Community College.

SECTION 89.16. The Ohio Board of Regents shall approve the creation of a new joint vocational-community college-university pilot partnership at the Warren County Career Center on a pilot basis in fiscal years 2004 and 2005.

(A) Before the pilot program may be implemented the following conditions shall be met:

(1) The Warren County Career Center's joint vocational school district board of education approves, by resolution, the establishment of a joint vocational-community college-university pilot partnership program within the Career Center.

(2) The Career Center's joint vocational school district board and the local workforce policy board submit to the Ohio Board of Regents a plan for the pilot partnership program similar to the Lorain County Community College's University Center.

(B) The Career Center's joint vocational school district board shall do all of the following in implementing the pilot program:

(1) Act as the host for programs offered by institutions of higher education;

(2) Select programs from existing programs offered by institutions of higher education that may be provided at the Career Center;

(3) Contract with institutions of higher education whereby the institutions may provide course offerings and programs at the Career Center. Under the contracts, the Career Center's joint vocational school district board shall do all of the following:

(a) Provide facilities at the Career Center for classrooms, laboratories, a library, and any other necessary facilities;

(b) Advertise the availability of classes and class schedules to the community;

(c) Coordinate any other administrative functions necessary for the efficient operations of the pilot program.

(C) Any institution of higher education that contracts with the Warren County Career Center shall compensate the Career Center at a reasonable rate for services provided by the Career Center.

(D) The pilot program is ineligible to receive state financial assistance for capital improvements or any other state financial assistance available to institutions of higher education.

SECTION 89.17. Notwithstanding section 3333.05 of the Revised Code, the Ohio Board of Regents shall issue a charter for a new community college, as defined in division (C) of section 3354.01 of the Revised Code, to be operated jointly with the Warren County Career Center. However, the new community college shall not offer courses or request approval of appropriate associate degree programs from the Ohio Board of Regents until after July 1, 2005. Until July 1, 2005, the board of trustees of the new community college is authorized only to carry out activities for the organization of the new community college.

(A) Before the Board of Regents issues a charter to the new community college the following conditions shall be met:

(1) The Warren County Career Center's joint vocational school district board of education approves, by resolution, the establishment of a new community college within the Career Center.

(2) The Warren County Career Center's joint vocational school district board and the local workforce policy board submit to the Ohio Board of Regents a community college plan that conforms to the requirements of section 3354.07 of the Revised Code and the plan is approved by the Board of Regents pursuant to that section.

(B) To administer the new community college, a board of trustees shall be appointed in accordance with section 3354.05 of the Revised Code.

(C) After July 1, 2005, the joint vocational-community college established under this section shall function as:

(1) A provider of career-technical education to secondary school students, subject to all laws applicable to joint vocational school districts under Title XXXIII of the Revised Code;

(2) A provider of arts and sciences and technical instructional programs, not exceeding two years' duration, for postsecondary school students, subject to all laws applicable to community colleges under Chapters 3345. and 3354. of the Revised Code, unless this section provides otherwise; and

(3) A provider of arts and sciences and technical instructional programs for secondary school students participating in the postsecondary enrollment options program under Chapter 3365. of the Revised Code.

(D) The community college district of the new community college is comprised of the territory included within the boundaries of Warren County.

(E) All funds received by the joint vocational-community college to carry out its duties under division (C)(1) of this section shall be kept separate from all funds received by the joint vocational-community college to carry out its duties under divisions (C)(2) and (3) of this section. All revenues from taxes levied by the joint vocational school district shall be kept separate from all revenues of any taxes levied by the community college district.

(F) The joint vocational-community college established under this section is ineligible to receive state financial assistance for capital improvements otherwise available to community colleges under Chapter 3345. or 3354. of the Revised Code. The joint vocational-community college is eligible to receive only classroom facilities assistance under sections 3318.40 to 3318.46 of the Revised Code, but only if the assistance would provide funds for a project to carry out the responsibilities of the Warren County Career Center specified in division (C)(1) of this section. The joint vocational-community college is ineligible for classroom facilities under sections 3318.40 to 3318.46 of the Revised Code for projects that when complete would be used exclusively for community college purposes, as prohibited by division (C) of section 3318.40 of the Revised Code.

(G) By June 30, 2005, the board of education of the joint vocational school district and the board of trustees of the new community college shall submit a report to the Board of Regents on the status of the joint vocational-community college-university pilot partnership authorized by this act and the development of the new community college authorized by this section.

SECTION 89.18. The General Assembly recognizes the pilot tuition restructuring plan of the board of trustees of Miami University for undergraduate students enrolled at the Oxford campus. The purpose of this plan is to make higher education more affordable for moderate income Ohioans, encourage high-achieving Ohio students to stay in Ohio rather than attending colleges in other states, and provide incentives for Ohio students to major in areas crucial to Ohio's priorities and future economic development.

Notwithstanding any limit on in-state undergraduate instructional and general fees imposed by this act, the General Assembly recognizes that the plan provides that all undergraduate students enrolled at the Oxford campus will be charged combined instructional and general fees in an amount equal to the nonresident instructional and general fees and tuition surcharge. For both resident students first enrolling on or after the summer term of 2003 and resident students who enrolled prior to this date, any increases in fees approved thereafter by the board of trustees are subject to any instructional and general fee caps imposed by the General Assembly.

In implementing the plan, all undergraduate students who are residents of Ohio shall receive student financial assistance in the form of an Ohio Resident Scholarship and an Ohio Leader Scholarship.

Miami University established the Ohio Resident Scholarship in recognition of the support provided by this state to Miami University. Each enrolled student who is a resident of Ohio shall receive an Ohio Resident Scholarship. The Ohio Resident Scholarship shall be an award that is equal to, or in excess of, the per capita core funding, which is funding through the state share of instruction and success challenges, the University receives from this state. For fiscal year 2004, the board of trustees established the amount of an Ohio Resident Scholarship at \$5,000. Each year, thereafter, the board of trustees of Miami University shall establish the amount of an Ohio Resident Scholarship for the entering class based upon increases or decreases in state core funding the University receives from this state and shall award such a scholarship to each undergraduate Ohio resident. The University shall guarantee the award will be renewed each year at not less than the initial amount until graduation or for six academic years, whichever occurs first.

Miami University established the Ohio Leader Scholarship to make Miami University more affordable for low- and middle-income Ohio families, to encourage high-achieving students to attend college in Ohio, and to provide incentives for Ohio students to major in areas crucial to Ohio's

economic development. To determine which families qualify as low- and middle-income, the University shall use federal financial aid guidelines but assume that generally families earning less than \$110,000 annually qualify. Each enrolled student who is a resident of Ohio shall receive an Ohio Leader Scholarship. The board of trustees established the amount of an Ohio Leader Scholarship at \$4,750 in fiscal year 2004. Each year thereafter, the board of trustees shall award an Ohio Leader Scholarship to each undergraduate Ohio resident student in an amount based on financial need, academic qualifications, or state priorities criteria. The amount of an award may vary from student to student. The initial award amount shall be guaranteed by the University to be renewed each year, assuming satisfactory academic progress, at an amount that is not less than the initial amount until graduation or six academic years, whichever occurs first. All Ohio Leader Scholarship awards shall use financial need as the first criteria in determining the award amount. For fiscal year 2005, the University shall offer one-third of accepted high-need Ohio residents above average Ohio Leader Scholarship awards, one-third of accepted low-need Ohio residents shall be offered below average Ohio Leader Scholarship awards, and one-third of accepted average-need Ohio residents shall be offered average Ohio Leader Scholarship awards.

For fiscal year 2004, at the Oxford campus of Miami University where current instructional and general fee charges equal \$18,103, the combined Ohio Resident Scholarship and Ohio Leader Scholarship amount totals \$9,750. Based on instructional and general fee charges of \$19,732 at the Oxford campus of Miami University in fiscal year 2005, Miami University projects the combined scholarship award will range from a minimum of \$10,000 for those with the least need who will receive the lowest Ohio Leader Scholarship award to a maximum of \$11,256 for those students with the greatest need who will receive the highest Ohio Leader Scholarship award. These scholarship awards shall augment other University financial assistance. During fiscal years 2004 and 2005, all funds generated by above average Ohio Leader Scholarship awards shall be utilized for the support of Ohio students.

For any resident student who enrolls at the Miami University Oxford campus prior to August 2004, the plan shall have no direct financial impact except for paper changes on invoices so that such a student shall only pay instructional and general fees in an amount equivalent to what the student was charged in the preceding year in addition to any increases in fees approved by the board of trustees.

SECTION 89.19. OIG RECONCILIATION

By the first day of August in each fiscal year, or as soon thereafter as possible, the Ohio Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the Ohio Instructional Grant Program. The amounts certified are hereby appropriated to appropriation item 235-618, OIG Reconciliation, from revenues received in the Instructional Grant Reconciliation Fund (Fund 5Y5).

SECTION 89.20. BELMONT TECHNICAL COLLEGE

Not later than one year after the effective date of this section, the Board of Regents shall consider a proposal from Belmont Technical College to convert to a community college.

The Board shall consider the demonstrated need for such an institution, the most effective use of state resources to fund such a conversion, and the regional benefit of such a conversion.

SECTION 90. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

General Revenue Fund

GRF 501-321	Institutional Operations	\$	848,631,155	\$	861,557,899
GRF 501-403	Prisoner Compensation	\$	8,455,052	\$	8,705,052
GRF 501-405	Halfway House	\$	36,890,139	\$	35,579,419
GRF 501-406	Lease Rental Payments	\$	141,997,000	\$	146,307,900
GRF 501-407	Community Nonresidential Programs	\$	15,161,353	\$	15,352,814
GRF 501-408	Community Misdemeanor Programs	\$	7,942,211	\$	8,041,489
GRF 501-501	Community Residential Programs - CBCF	\$	53,970,123	\$	52,872,875
GRF 502-321	Mental Health Services	\$	66,802,290	\$	68,265,662
GRF 503-321	Parole and Community Operations	\$	77,195,938	\$	78,845,845
GRF 504-321	Administrative Operations	\$	26,533,707	\$	27,420,848
GRF 505-321	Institution Medical Services	\$	118,406,940	\$	120,014,320
GRF 506-321	Institution Education Services	\$	24,335,287	\$	24,747,574
GRF 507-321	Institution Recovery Services	\$	7,018,500	\$	7,124,516
TOTAL GRF General Revenue Fund		\$	1,433,339,695	\$	1,454,836,213

General Services Fund Group

4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$	1,693,129	\$	1,758,177
4D4 501-603	Prisoner Programs	\$	20,537,291	\$	20,967,703
4L4 501-604	Transitional Control	\$	1,348,740	\$	1,593,794

4S5	501-608	Education Services	\$	4,452,754	\$	4,564,072
483	501-605	Property Receipts	\$	383,894	\$	393,491
5H8	501-617	Offender Financial Responsibility	\$	1,335,000	\$	1,374,020
5L6	501-611	Information Technology Services	\$	3,650,712	\$	3,741,980
571	501-606	Training Academy Receipts	\$	73,356	\$	75,190
593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423
TOTAL GSF General Services Fund Group			\$	38,182,606	\$	39,293,850
Federal Special Revenue Fund Group						
3S1	501-615	Truth-In-Sentencing Grants	\$	24,604,435	\$	25,517,173
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335
TOTAL FED Federal Special Revenue Fund Group			\$	35,363,764	\$	36,817,508
Intragovernmental Service Fund Group						
148	501-602	Services and Agricultural	\$	95,207,653	\$	95,207,653
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879
TOTAL ISF Intragovernmental Service Fund Group			\$	124,955,828	\$	126,699,532
TOTAL ALL BUDGET FUND GROUPS			\$	1,631,841,893	\$	1,657,647,103

COMMUNITY CORRECTIONS TRANSFERS

The Department of Rehabilitation and Correction shall seek the approval of the Controlling Board to transfer in FY 2005 from the unexpended, unobligated GRF appropriations made to the Department for fiscal years 2004 and 2005 at least \$3,250,000 in appropriation authority to appropriation item 501-405, Halfway House, and at least \$3,250,000 in appropriation authority to appropriation item 501-501, Community Residential Programs - CBCF.

ZERO-BASED BUDGETING

The Director of Budget and Management shall prepare a full zero-based budget for the biennium ending June 30, 2007, for the Department of Rehabilitation and Correction. The Director shall offer the Department substantial technical assistance throughout the process of preparing its zero-based budget. The Department shall prepare a full zero-based budget in such manner and according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501-406, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised

Code but limited to the aggregate amount of \$288,304,900. This appropriation amount is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

PRISONER COMPENSATION

Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to the Services and Agricultural Fund (Fund 148) for the purposes of paying prisoner compensation.

CASH TRANSFER TO THE OFFENDER FINANCIAL RESPONSIBILITY FUND

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Adult Parole Authority Probation Services Fund (Fund 5A3) to the Offender Financial Responsibility Fund (Fund 5H8).

SECTION 91. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF 415-100	Personal Services	\$	8,677,911	\$	8,851,468
GRF 415-402	Independent Living Council	\$	12,040	\$	12,280
GRF 415-403	Mental Health Services	\$	717,221	\$	717,221
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531
GRF 415-431	Office for People with Brain Injury	\$	222,364	\$	226,012
GRF 415-506	Services for People with Disabilities	\$	11,830,306	\$	12,185,215
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377
GRF 415-520	Independent Living Services	\$	50,000	\$	50,000
TOTAL GRF General Revenue Fund		\$	23,764,478	\$	24,296,832

General Services Fund Group

4W5 415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040
467 415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082
TOTAL GSF General Services Fund Group		\$	19,601,088	\$	20,189,122

Federal Special Revenue Fund Group

3L1 415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488
3L1 415-607	Social Security Administration Cost	\$	174,119	\$	175,860

Am. Sub. H. B. No. 95

2074

3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484
317	415-620	Disability Determination	\$	73,120,329	\$	76,776,343
379	415-616	Federal-Vocational Rehabilitation	\$	117,955,833	\$	125,520,457
TOTAL FED Federal Special Revenue Fund Group			\$	208,961,371	\$	220,187,296
State Special Revenue Fund Group						
4L1	415-619	Services for Rehabilitation	\$	3,623,845	\$	3,176,070
468	415-618	Third Party Funding	\$	1,692,991	\$	2,392,991
TOTAL SSR State Special Revenue Fund Group			\$	5,316,836	\$	5,569,061
TOTAL ALL BUDGET FUND GROUPS			\$	257,643,773	\$	270,242,311

MR/DD SERVICES

The foregoing appropriation item 415-404, MR/DD Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Mental Retardation and Developmental Disabilities. The Rehabilitation Services Commission shall report to the Department of Mental Retardation and Developmental Disabilities, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES

The foregoing appropriation item 415-405, Vocational Rehabilitation/Job and Family Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Job and Family Services. The Rehabilitation Services Commission shall report to the Department of Job and Family Services, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

ASSISTIVE TECHNOLOGY

The foregoing appropriation item 415-406, Assistive Technology, shall be provided to Assistive Technology of Ohio and shall be used only to provide grants under that program. No amount of the appropriation may be

used for administrative costs.

OFFICE FOR PEOPLE WITH BRAIN INJURY

Of the foregoing appropriation item 415-431, Office for People with Brain Injury, \$50,000 in each fiscal year shall be used for the state match for a federal grant awarded through the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be provided to the Brain Injury Trust Fund. The remaining appropriation in this item shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

SERVICES FOR THE ELDERLY

The foregoing appropriation item 415-509, Services for the Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment, shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:

(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments;

(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program;

(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities, who are Social Security beneficiaries, to achieve competitive employment. This item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87.

(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to achieve a noncompetitive employment

goal.

ADMINISTRATIVE EXPENSES

The foregoing appropriation item 415-606, Administrative Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415-402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council.

MENTAL HEALTH SERVICES

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health.

The Department of Mental Health shall receive a quarterly report from the Rehabilitation Services Commission stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked.

SERVICES FOR THE DEAF

The foregoing appropriation item 415-508, Services for the Deaf, shall be used to supplement Social Security reimbursement funds used to provide grants to community centers for the deaf. These funds shall not be used in lieu of Social Security reimbursement funds.

INDEPENDENT LIVING SERVICES

The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal-Independent Living Centers or Services, shall be used to support state independent living centers or independent living services pursuant to Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not limited to, Projects with Industry, Training Grants, and Brain Injury Grants.

PILOT PROGRAM FOR VOCATIONAL REHABILITATION

During fiscal years 2004 and 2005, the Rehabilitation Services Commission may conduct a pilot program to provide vocational rehabilitation and related services to entities, employers, or individuals that

are not eligible for state or federally supported services through the commission. The commission shall propose fees to be collected from the entities, employers, or individuals served by the pilot program for the approval of the Controlling Board to support the costs for vocational rehabilitation and related services provided under the pilot program. Fee revenues collected under the program shall be credited to Fund 468 (Third Party Funding). Prior to the commencement of services through the pilot program, the Rehabilitation Services Commission shall develop a program plan to be submitted to the Controlling Board. Any plan revisions or updates shall be reported to the Controlling Board. During the implementation of the pilot program, the Rehabilitation Services Commission shall investigate and determine the possibility of utilizing this source of revenue to match federal funds. The Rehabilitation Services Commission shall evaluate the progress of the pilot program and issue a report of its findings to the Governor by December 15, 2005. The report shall include a recommendation to either continue or discontinue the pilot program in the next biennium.

SECTION 92. RCB RESPIRATORY CARE BOARD

General Services Fund Group

4K9 872-609	Operating Expenses	\$	318,499	\$	315,481
TOTAL GSF General Services					
Fund Group		\$	318,499	\$	315,481
TOTAL ALL BUDGET FUND GROUPS					
		\$	318,499	\$	315,481

SECTION 93. REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund

085 800-900	Volunteer Firefighters'	\$	200,000	\$	200,000
	Dependents Fund				
TOTAL 085 Volunteer Firefighters'					
Dependents Fund		\$	200,000	\$	200,000
Agency Fund Group					
062 110-900	Resort Area Excise Tax	\$	500,000	\$	500,000
063 110-900	Permissive Tax Distribution	\$	1,397,512,400	\$	1,439,437,700
067 110-900	School District Income Tax	\$	154,836,700	\$	161,030,200
	Fund				
4P8 001-698	Cash Management	\$	2,500,000	\$	2,500,000
	Improvement Fund				
608 001-699	Investment Earnings	\$	174,300,000	\$	181,300,000
TOTAL AGY Agency Fund Group					
		\$	1,729,649,100	\$	1,784,767,900
Holding Account Redistribution					
R45 110-617	International Fuel Tax	\$	36,400,000	\$	37,200,000
	Distribution				
TOTAL R45 Holding Account Redistribution					
Fund		\$	36,400,000	\$	37,200,000
Revenue Distribution Fund Group					

Am. Sub. H. B. No. 95

2078

049	038-900	Indigent Drivers Alcohol Treatment	\$	1,850,000	\$	1,850,000
050	762-900	International Registration Plan Distribution	\$	60,000,000	\$	60,000,000
051	762-901	Auto Registration Distribution	\$	475,000,000	\$	486,875,000
054	110-900	Local Government Property Tax Replacement	\$	75,000,000	\$	75,000,000
060	110-900	Gasoline Excise Tax Fund	\$	113,344,700	\$	115,611,600
064	110-900	Local Government Revenue Assistance	\$	98,500,000	\$	98,500,000
065	110-900	Library/Local Government Support Fund	\$	475,000,000	\$	475,000,000
066	800-900	Undivided Liquor Permit Fund	\$	13,500,000	\$	13,500,000
068	110-900	State/Local Government Highway Distribution Fund	\$	227,607,000	\$	232,159,100
069	110-900	Local Government Fund	\$	705,000,000	\$	705,000,000
082	110-900	Horse Racing Tax	\$	130,000	\$	130,000
083	700-900	Ohio Fairs Fund	\$	3,150,000	\$	3,150,000
TOTAL RDF Revenue Distribution Fund Group			\$	2,248,081,700	\$	2,266,775,700
TOTAL ALL BUDGET FUND GROUPS			\$	4,014,330,800	\$	4,088,943,600

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are to be used for the purpose of administering and distributing the designated revenue distributions fund according to the Revised Code. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 94. SAN BOARD OF SANITARIAN REGISTRATION**General Services Fund Group**

4K9	893-609	Operating Expenses	\$	124,892	\$	125,612
TOTAL GSF General Services Fund Group			\$	124,892	\$	125,612
TOTAL ALL BUDGET FUND GROUPS			\$	124,892	\$	125,612

SECTION 95. OSB OHIO STATE SCHOOL FOR THE BLIND**General Revenue Fund**

GRF	226-100	Personal Services	\$	6,287,483	\$	6,456,616
GRF	226-200	Maintenance	\$	685,256	\$	685,256
GRF	226-300	Equipment	\$	121,355	\$	121,355
TOTAL GRF General Revenue Fund			\$	7,094,094	\$	7,263,227

General Services Fund Group

4H8	226-602	Education Reform Grants	\$	61,476	\$	61,476
TOTAL GSF General Services Fund Group			\$	61,476	\$	61,476

Federal Special Revenue Fund Group

3P5	226-643	Medicaid Professional Services Reimbursement	\$	143,600	\$	143,600

Am. Sub. H. B. No. 95

2079

310 226-626	Coordinating Unit	\$	1,390,000	\$	1,384,000
TOTAL FED Federal Special					
	Revenue Fund Group	\$	1,533,600	\$	1,527,600
State Special Revenue Fund Group					
4M5 226-601	Work Study & Technology	\$	42,919	\$	42,919
	Investments				
TOTAL SSR State Special Revenue					
	Fund Group	\$	42,919	\$	42,919
TOTAL ALL BUDGET FUND GROUPS					

SECTION 96. OSD OHIO STATE SCHOOL FOR THE DEAF

General Revenue Fund

GRF 221-100	Personal Services	\$	8,071,660	\$	8,391,704
GRF 221-200	Maintenance	\$	1,012,561	\$	1,032,813
GRF 221-300	Equipment	\$	269,377	\$	269,377
TOTAL GRF General Revenue Fund					

General Services Fund Group

4M1 221-602	Education Reform Grants	\$	70,701	\$	70,701
TOTAL GSF General Services					
	Fund Group	\$	70,701	\$	70,701

Federal Special Revenue Fund Group

3R0 221-684	Medicaid Professional	\$	111,377	\$	111,377
	Services Reimbursement				
311 221-625	Coordinating Unit	\$	949,899	\$	974,649
3Y1 221-686	Early Childhood Grant	\$	248,235	\$	262,275
TOTAL FED Federal Special					
	Revenue Fund Group	\$	1,309,511	\$	1,348,301

State Special Revenue Fund Group

4M0 221-601	Educational Program	\$	33,188	\$	33,188
	Expenses				
5H6 221-609	Even Start Fees & Gifts	\$	98,500	\$	98,500
TOTAL SSR State Special Revenue					
	Fund Group	\$	131,688	\$	131,688
TOTAL ALL BUDGET FUND GROUPS					

SECTION 97. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund

GRF 230-428	Lease Rental Payments	\$	31,776,500	\$	31,704,700
GRF 230-908	Common Schools General	\$	106,322,300	\$	145,989,300
	Obligation Debt Service				

TOTAL GRF General Revenue Fund		\$	138,098,800	\$	177,694,000

Federal Special Revenue Fund Group

3X9 230-601	Federal School Facilities	\$	28,214,058	\$	28,214,058
	Grant				
TOTAL FED Federal Special Revenue Fund					
	Group	\$	28,214,058	\$	28,214,058

State Special Revenue Fund Group

5E3 230-644	Operating Expenses	\$	7,009,766	\$	7,009,766

TOTAL SSR State Special Revenue			
Fund Group	\$	7,009,766	\$ 7,009,766
TOTAL ALL BUDGET FUND GROUPS	\$	173,322,624	\$ 212,917,824

SECTION 97.01. LEASE RENTAL PAYMENTS

The foregoing appropriation item 230-428, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the School Facilities Commission pursuant to leases and agreements made under section 3318.26 of the Revised Code, but limited to the aggregate amount of \$63,481,200. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to Chapter 3318. of the Revised Code.

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230-908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.03 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

OPERATING EXPENSES

The foregoing appropriation item 230-644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3318. of the Revised Code.

Within ten days after the effective date of this section, or as soon as possible thereafter, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3).

By July 10, 2004, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3). The amount transferred may not exceed investment earnings credited to the School Building Assistance Fund (Fund 032) less any amount required to be

paid for federal arbitrage rebate purposes.

SCHOOL FACILITIES ENCUMBRANCES AND
REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval in accordance with section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of these canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are appropriated.

SECTION 97.02. COMMUNITY SCHOOL CLASSROOM FACILITIES
LOAN GUARANTEE

The unencumbered and unallotted balances as of June 30, 2003, in appropriation item 230-602, Community School Loan Guarantee, are hereby reappropriated in fiscal year 2004 to support loan guarantees to community schools under section 3318.50 of the Revised Code. The unencumbered and unallotted balances of the appropriation at the end of fiscal year 2004 are hereby reappropriated in fiscal year 2005 to support loan guarantees to community schools under section 3318.50 of the Revised Code.

SECTION 97.03. EXTREME ENVIRONMENTAL CONTAMINATION
OF SCHOOL FACILITIES

Notwithstanding any other provision of law to the contrary, the School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not exclusively to a school district in the lowest fifty per cent of adjusted valuation per pupil on the current ranking of school districts established pursuant to section 3317.02 of the Revised Code, for the purpose of the relocation or replacement of school facilities required as a result of extreme environmental contamination.

The School Facilities Commission shall contract with an independent environmental consultant to conduct a study and to report to the commission as to the seriousness of the environmental contamination, whether the contamination violates applicable state and federal standards, and whether the facilities are no longer suitable for use as school facilities. The commission then shall make a determination regarding funding for the

relocation or replacement of the school facilities. If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the school facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

SECTION 97.04. (A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would otherwise be authorized under Chapter 3318. of the Revised Code. The commission shall not commit funds under this section unless all of the following conditions are met:

(1) The district has entered into a cooperative agreement with a state-assisted technical college.

(2) The district has received an irrevocable commitment of additional funding from nonpublic sources.

(3) The facility is intended to serve both secondary and postsecondary instructional purposes.

(B) The commission shall enter into an agreement with the district for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the district's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the commission.

(3) The commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

SECTION 98. NET OHIO SCHOOLNET COMMISSION

General Revenue Fund

GRF 228-404	Operating Expenses	\$	5,961,208	\$	5,961,208
GRF 228-406	Technical and Instructional Professional Development	\$	7,691,831	\$	7,691,831
GRF 228-539	Education Technology	\$	6,989,315	\$	6,989,315
Total GRF General Revenue Fund		\$	20,642,354	\$	20,642,354

General Services Fund Group

5D4 228-640	Conference/Special Purpose Expenses	\$	1,350,000	\$	1,350,000
TOTAL GSF General Services Fund Group		\$	1,350,000	\$	1,350,000

Federal Special Revenue Fund Group

3X8 228-604	Individuals With Disabilities Education Act	\$	1,500,000	\$	1,500,000
TOTAL FED Federal Special Revenue Fund Group		\$	1,500,000	\$	1,500,000

State Special Revenue Fund Group

4W9 228-630	Ohio SchoolNet Telecommunity Fund	\$	400,000	\$	400,000
4X1 228-634	Distance Learning	\$	1,750,000	\$	1,750,000
5T3 228-605	Gates Foundation Grants	\$	1,194,908	\$	1,194,908
TOTAL SSR State Special Revenue Fund Group		\$	3,344,908	\$	3,344,908
TOTAL ALL BUDGET FUND GROUPS			26,837,262		26,837,262

SECTION 98.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission to make grants or provide services to qualifying schools, including the State School for the Blind and the Ohio School for the Deaf, for the provision of hardware, software, telecommunications services, and staff development to support educational uses of technology in the classroom.

The Ohio SchoolNet Commission shall consider the professional development needs associated with the OhioReads Program when making funding allocations and program decisions.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$1,260,000 in each fiscal year shall be allocated equally among the 12 Ohio Educational Television Stations and, used with the advice of the Ohio SchoolNet Commission, for the production of interactive instructional programming series and teleconferences to support the SchoolNet Commission. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$818,322 in each fiscal year shall be used by the INFOhio Network, with the advice of the Ohio SchoolNet Commission, to support the provision of electronic resources to all public schools with preference given to elementary schools. Consideration shall be given by the Commission to coordinating the allocation of these moneys with the efforts of OhioLINK and the Ohio Public Information Network.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$300,000 in each fiscal year shall be used by the JASON project, with the advice of the Ohio SchoolNet Commission, to provide statewide access and a 75 per cent subsidy for statewide licensing of JASON content for 90,000 middle school students statewide, and professional development for teachers participating in the program.

The remaining appropriation allocated in appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission for professional development for teachers and administrators for the use of educational technology. The commission may make grants to provide technical assistance and professional development on the use of educational technology to school districts.

Eligible recipients of grants include regional training centers, county offices of education, data collection sites, instructional technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. Services provided through these grants may include use of private entities subcontracting through the grant recipient.

Grants shall be made to entities on a contractual basis with the Ohio SchoolNet Commission. Contracts shall include provisions that demonstrate

how services will benefit technology use in the schools, and in particular will support Ohio SchoolNet efforts to support technology in the schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time.

Grants shall be awarded in a manner consistent with the goals of Ohio SchoolNet. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers.

Application for grants from this appropriation in appropriation item 228-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by the Ohio SchoolNet Commission. Funds allocated through these grants may be combined with funds received through other state or federal grants for technology so long as the school district's technology plan specifies the use of these funds.

EDUCATION TECHNOLOGY

The foregoing appropriation item 228-539, Education Technology, shall be used to provide funding to suppliers of information services to school districts for the provision of hardware, software, and staff development in support of educational uses of technology in the classroom as prescribed by the State Plan for Technology pursuant to section 3301.07 of the Revised Code, and to support assistive technology for children and youth with disabilities.

Of the foregoing appropriation item 228-539, Education Technology, up to \$1,946,000 in each fiscal year shall be used by the Ohio SchoolNet Commission to link all public K-12 classrooms to each other and the Internet, and to provide access to voice, video, and data educational resources for students and teachers through the OneNet Ohio Program.

Up to \$4,403,778 in each fiscal year shall be used by the Ohio SchoolNet Commission to contract with instructional television, and \$639,537 in each fiscal year shall be used by the commission to contract with education media centers to provide Ohio schools with instructional resources and services.

Resources may include, but not be limited to, the following: pre-recorded video materials (including videotape, laser discs, and CD-ROM discs); computer software for student use or student access to electronic communication, databases, spreadsheet, and word processing capability; live student courses or courses delivered electronically; automated media systems; and instructional and professional development

materials for teachers. The commission shall cooperate with education technology agencies in the acquisition, development, and delivery of such educational resources to ensure high-quality and educational soundness at the lowest possible cost. Delivery of such resources may utilize a variety of technologies, with preference given to a high-speed integrated information network that can transport video, voice, data, and graphics simultaneously.

Services shall include presentations and technical assistance that will help students and teachers integrate educational materials that support curriculum objectives, match specific learning styles, and are appropriate for individual interests and ability levels.

Such instructional resources and services shall be made available for purchase by chartered nonpublic schools or by public school districts for the benefit of pupils attending chartered nonpublic schools.

TELECOMMUNITY

The foregoing appropriation item 228-630, Ohio SchoolNet Telecommunity Fund, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by the commission up to the amount specified in agreements with the listed telephone companies.

Within 30 days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W9 in the State Special Revenue Fund Group any investment earnings from moneys paid to the Ohio SchoolNet Commission by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

DISTANCE LEARNING

Appropriation item 228-634, Distance Learning, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the commission up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to fund 4X1 in the State Special Revenue Fund Group any investment earnings from moneys paid to the office or to the SchoolNet Commission by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

GATES FOUNDATION GRANTS

The foregoing appropriation item 228-605, Gates Foundation Grants, shall be used by the Ohio SchoolNet Commission to provide professional development to school district principals, superintendents, and other administrative staff for the use of education technology. The appropriation is made possible through a grant from the Bill and Melinda Gates foundation.

SECTION 99. SOS SECRETARY OF STATE

General Revenue Fund

GRF 050-321	Operating Expenses	\$	2,750,000	\$	2,750,000
GRF 050-403	Election Statistics	\$	110,570	\$	110,570
GRF 050-407	Pollworkers Training	\$	295,742	\$	295,742
GRF 050-409	Litigation Expenditures	\$	4,949	\$	4,949
TOTAL GRF General Revenue Fund		\$	3,161,261	\$	3,161,261

General Services Fund Group

4S8 050-610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
412 050-609	Notary Commission	\$	178,124	\$	185,249
413 050-601	Information Systems	\$	163,418	\$	169,955
414 050-602	Citizen Education Fund	\$	72,800	\$	75,712
TOTAL General Services Fund Group		\$	421,542	\$	438,116

Federal Special Revenue Fund Group

3X4 050-612	Ohio Cntr/Law Related Educ Grant	\$	41,000	\$	41,000
TOTAL FED Federal Special Revenue Fund Group		\$	41,000	\$	41,000

State Special Revenue Fund Group

5N9 050-607	Technology Improvements	\$	124,582	\$	129,565
599 050-603	Business Services Operating Expenses	\$	13,889,462	\$	14,241,966
TOTAL SSR State Special Revenue Fund Group		\$	14,014,044	\$	14,371,531

Holding Account Redistribution Fund Group

R01 050-605	Uniform Commercial Code Refunds	\$	65,000	\$	65,000
R02 050-606	Corporate/Business Filing Refunds	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	165,000	\$	165,000
TOTAL ALL BUDGET FUND GROUPS		\$	17,802,847	\$	18,176,908

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 100. SEN THE OHIO SENATE**General Revenue Fund**

GRF 020-321	Operating Expenses	\$	10,887,655	\$	11,432,037
TOTAL GRF General Revenue Fund		\$	10,887,655	\$	11,432,037

General Services Fund Group

102 020-602	Senate Reimbursement	\$	422,881	\$	444,025
409 020-601	Miscellaneous Sales	\$	32,529	\$	34,155
TOTAL GSF General Services Fund Group		\$	455,410	\$	478,180
TOTAL ALL BUDGET FUND GROUPS		\$	11,343,065	\$	11,910,217

SECTION 101. CSF COMMISSIONERS OF THE SINKING FUND**Debt Service Fund Group**

071 155-901	Highway Obligations Bond Retirement Fund	\$	35,536,300	\$	10,450,000
072 155-902	Highway Capital Improvements Bond Retirement Fund	\$	153,559,600	\$	173,238,200
073 155-903	Natural Resources Bond Retirement	\$	23,808,300	\$	26,914,300
074 155-904	Conservation Projects Bond Service Fund	\$	9,743,500	\$	11,235,700
076 155-906	Coal Research and Development Bond Retirement Fund	\$	7,231,200	\$	9,185,100
077 155-907	State Capital Improvements Bond Retirement Fund	\$	156,974,400	\$	152,069,700
078 155-908	Common Schools Bond Retirement Fund	\$	106,322,300	\$	145,989,300

079 155-909	Higher Education Bond Retirement Fund	\$	97,668,000	\$	130,967,600
	TOTAL DSF Debt Service Fund Group	\$	590,843,600	\$	660,049,900
	TOTAL ALL BUDGET FUND GROUPS	\$	590,843,600	\$	660,049,900

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 102. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY**General Services Fund Group**

4K9 886-609	Operating Expenses	\$	390,966	\$	403,554
	TOTAL GSF General Services Fund Group	\$	390,966	\$	403,554
	TOTAL ALL BUDGET FUND GROUPS	\$	390,966	\$	403,554

SECTION 103. BTA BOARD OF TAX APPEALS**General Revenue Fund**

GRF 116-321	Operating Expenses	\$	2,171,760	\$	2,171,760
	TOTAL GRF General Revenue Fund	\$	2,171,760	\$	2,171,760
	TOTAL ALL BUDGET FUND GROUPS	\$	2,171,760	\$	2,171,760

SECTION 104. TAX DEPARTMENT OF TAXATION**General Revenue Fund**

GRF 110-321	Operating Expenses	\$	92,501,007	\$	94,267,788
GRF 110-412	Child Support Administration	\$	74,215	\$	74,215
GRF 110-901	Property Tax Allocation - Taxation	\$	434,650,000	\$	462,640,000
GRF 110-906	Tangible Tax Exemption - Taxation	\$	26,590,000	\$	25,090,000
	TOTAL GRF General Revenue Fund	\$	553,815,222	\$	582,072,003

Agency Fund Group

095 110-901	Municipal Income Tax	\$	12,000,000	\$	12,000,000
425 110-635	Tax Refunds	\$	1,296,756,200	\$	1,337,119,600
	TOTAL AGY Agency Fund Group	\$	1,308,756,200	\$	1,349,119,600

General Services Fund Group

433 110-602	Tape File Account	\$	96,165	\$	96,165
	TOTAL GSF General Services Fund Group	\$	96,165	\$	96,165

Federal Special Revenue Fund Group

3J6 110-601	Motor Fuel Compliance	\$	33,300	\$	25,000
	TOTAL FED Federal Special Revenue Fund Group	\$	33,300	\$	25,000

State Special Revenue Fund Group

4C6	110-616	International Registration Plan	\$	706,855	\$	706,855
4R6	110-610	Tire Tax Administration	\$	65,000	\$	65,000
435	110-607	Local Tax Administration	\$	13,600,000	\$	13,700,000
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999
5N5	110-605	Municipal Income Tax Administration	\$	650,000	\$	650,000
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000
5V7	110-622	Motor Fuel Tax Administration	\$	3,734,036	\$	3,833,091
5V8	110-623	Property Tax Administration	\$	11,569,719	\$	11,938,362
5W4	110-625	Centralized Tax Filing and Payment	\$	3,000,000	\$	3,000,000
639	110-614	Cigarette Tax Enforcement	\$	168,925	\$	168,925
642	110-613	Ohio Political Party Distributions	\$	600,000	\$	600,000
688	110-615	Local Excise Tax Administration	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group			\$	39,054,766	\$	39,622,464

Holding Account Redistribution Fund Group

R10	110-611	Tax Distributions	\$	50,000	\$	50,000
R11	110-612	Miscellaneous Income Tax Receipts	\$	50,000	\$	50,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	100,000	\$	100,000
TOTAL ALL BUDGET FUND GROUPS			\$	1,901,855,653	\$	1,971,035,232

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

LITTER CONTROL TAX ADMINISTRATION FUND

Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2003, to June 30, 2004, the amount of \$625,232, and during the period from July 1, 2004, to June 30, 2005, the amount of \$625,232, received by the Tax Commissioner under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).

CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management pursuant to a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund. Such transfers of cash shall not exceed \$3,000,000 in any fiscal year.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110-616, International Registration Plan, shall be used pursuant to section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION

The foregoing appropriation item 110-901, Property Tax Allocation - Taxation, is appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts of the state, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer pursuant to division (G) of section 321.24 of the Revised Code for all local taxing districts located in the county except for school districts, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts.

Upon receipt of these amounts, each local taxing district shall distribute

the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 110-901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110-901, Municipal Income Tax, shall be used to make payments to municipal corporations as provided in section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110-635, Tax Refunds, shall be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 105. DOT DEPARTMENT OF TRANSPORTATION

Transportation Modes

General Revenue Fund

GRF 775-451	Public Transportation - State	\$	18,875,595	\$	19,525,595
GRF 776-465	Ohio Rail Development Commission	\$	3,116,889	\$	2,936,056
GRF 776-466	Railroad Crossing/Grade Separation	\$	500,000	\$	840,000
GRF 777-471	Airport Improvements - State	\$	1,908,495	\$	1,908,495
GRF 777-473	Rickenbacker Lease Payments - State	\$	591,600	\$	591,500
TOTAL GRF General Revenue Fund		\$	24,992,579	\$	25,801,646

Federal Special Revenue Fund Group

3B9 776-662	Rail Transportation - Federal	\$	50,000	\$	50,000
TOTAL FSR Federal Special Revenue Fund Group		\$	50,000	\$	50,000

State Special Revenue Fund Group

4N4 776-663	Panhandle Lease Reserve Payments	\$	770,000	\$	770,000
4N4 776-664	Rail Transportation - Other	\$	1,919,500	\$	2,111,500
5W8 773-605	Roadside Rest Area		250,000		250,000

5W9 777-615	Improvement County Airport Maintenance Assistance	570,000	570,000
TOTAL SSR State Special Revenue			
Fund Group		\$ 3,509,500	\$ 3,701,500
TOTAL ALL BUDGET FUND GROUPS		\$ 28,552,079	\$ 29,553,146

ELDERLY AND DISABLED FARE ASSISTANCE

Of the foregoing appropriation item 775-451, Public Transportation - State, up to \$4,012,780 in fiscal year 2004 and \$5,015,975 in fiscal year 2005 may be used to make grants to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. Pursuant to division (B) of section 5501.07 of the Revised Code, the Director of Transportation shall establish criteria for the distribution of these grants.

AVIATION LEASE PAYMENTS

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

SECTION 106. TOS TREASURER OF STATE**General Revenue Fund**

GRF 090-321	Operating Expenses	\$ 9,329,082	\$ 9,619,082
GRF 090-401	Office of the Sinking Fund	\$ 554,868	\$ 554,868
GRF 090-402	Continuing Education	\$ 463,585	\$ 463,585
GRF 090-524	Police and Fire Disability Pension Fund	\$ 35,000	\$ 30,000
GRF 090-534	Police & Fire Ad Hoc Cost of Living	\$ 225,000	\$ 230,000
GRF 090-544	Police and Fire State Contribution	\$ 1,200,000	\$ 1,200,000
GRF 090-554	Police and Fire Survivor Benefits	\$ 1,320,000	\$ 1,260,000
GRF 090-575	Police and Fire Death Benefits	\$ 24,000,000	\$ 25,000,000
TOTAL GRF General Revenue Fund		\$ 37,127,535	\$ 38,357,535
Agency Fund Group			

Am. Sub. H. B. No. 95

2094

425	090-635	Tax Refunds	\$	31,000,000	\$	31,000,000
		TOTAL Agency Fund Group	\$	31,000,000	\$	31,000,000
		General Services Fund Group				
4E9	090-603	Securities Lending Income	\$	2,400,000	\$	2,100,000
577	090-605	Investment Pool	\$	600,000	\$	550,000
		Reimbursement				
605	090-609	Treasurer of State	\$	600,000	\$	700,000
		Administrative Fund				
		TOTAL GSF General Services				
		Fund Group	\$	3,600,000	\$	3,350,000
		State Special Revenue Fund Group				
5C5	090-602	County Treasurer Education	\$	175,000	\$	135,000
		TOTAL SSR State Special Revenue				
		Fund Group	\$	175,000	\$	135,000
		TOTAL ALL BUDGET FUND GROUPS	\$	71,902,535	\$	72,842,535

SECTION 106.01. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090-401, Office of the Sinking Fund, shall be used for financing and other costs incurred by or on behalf of the Commissioners of the Sinking Fund, the Ohio Public Facilities Commission or its secretary, or the Treasurer of State, with respect to State of Ohio general obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such reimbursements are appropriated from the general obligation bond retirement funds created by the Constitution and laws to the extent such costs are incurred.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090-575, Police and Fire Death Benefits, shall be disbursed annually by the Treasurer of State at the beginning of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. By the twentieth day of June of each year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this item but not disbursed.

The foregoing appropriation item 090-635, Tax Refunds, shall be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is

determined by the Director of Budget and Management that additional amounts are necessary, such amounts are appropriated.

SECTION 107. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

State Special Revenue Fund Group

691 810-632	PUSTRCB Staff	\$	1,075,158	\$	1,075,158
TOTAL SSR State Special Revenue					
Fund Group		\$	1,075,158	\$	1,075,158
TOTAL ALL BUDGET FUND GROUPS					

SECTION 108. TTA OHIO TUITION TRUST AUTHORITY

State Special Revenue Fund Group

5P3 095-602	Variable Savings Plan	\$	1,639,747	\$	1,690,213
645 095-601	Operating Expenses	\$	3,570,614	\$	3,689,101
TOTAL SSR State Special Revenue					
Fund Group		\$	5,210,361	\$	5,379,314
TOTAL ALL BUDGET FUND GROUPS					

SECTION 109. OVH OHIO VETERANS' HOME

General Revenue Fund

GRF 430-100	Personal Services	\$	20,664,311	\$	18,877,112
GRF 430-200	Maintenance	\$	6,912,553	\$	6,546,928
TOTAL GRF General Revenue Fund					

General Services Fund Group

484 430-603	Rental and Service Revenue	\$	709,737	\$	709,737
TOTAL GSF General Services Fund Group					

Federal Special Revenue Fund Group

3L2 430-601	Federal Grants	\$	12,220,340	\$	14,696,578
TOTAL FED Federal Special Revenue					
Fund Group		\$	12,220,340	\$	14,696,578

State Special Revenue Fund Group

4E2 430-602	Veterans Home Operating	\$	6,719,938	\$	7,769,277
604 430-604	Veterans Home Improvement	\$	770,096	\$	770,096
TOTAL SSR State Special Revenue					
Fund Group		\$	7,490,034	\$	8,539,373
TOTAL ALL BUDGET FUND GROUPS					

SECTION 110. VET VETERANS' ORGANIZATIONS

General Revenue Fund

VAP AMERICAN EX-PRISONERS OF WAR

GRF 743-501	State Support	\$	25,030	\$	25,030

VAN ARMY AND NAVY UNION, USA, INC.

GRF 746-501	State Support	\$	55,012	\$	55,012
VKW KOREAN WAR VETERANS					
GRF 747-501	State Support	\$	53,953	\$	49,453
VJW JEWISH WAR VETERANS					
GRF 748-501	State Support	\$	29,715	\$	29,715
VCW CATHOLIC WAR VETERANS					
GRF 749-501	State Support	\$	57,990	\$	57,990
VPH MILITARY ORDER OF THE PURPLE HEART					
GRF 750-501	State Support	\$	56,377	\$	56,377
VVV VIETNAM VETERANS OF AMERICA					
GRF 751-501	State Support	\$	185,954	\$	185,954
VAL AMERICAN LEGION OF OHIO					
GRF 752-501	State Support	\$	252,328	\$	252,328
VII AMVETS					
GRF 753-501	State Support	\$	237,919	\$	237,919
VAV DISABLED AMERICAN VETERANS					
GRF 754-501	State Support	\$	166,308	\$	166,308
VMC MARINE CORPS LEAGUE					
GRF 756-501	State Support	\$	85,972	\$	85,972
V37 37TH DIVISION AEF VETERANS' ASSOCIATION					
GRF 757-501	State Support	\$	5,946	\$	5,946
VFW VETERANS OF FOREIGN WARS					
GRF 758-501	State Support	\$	196,615	\$	196,615
TOTAL GRF General Revenue Fund		\$	1,409,119	\$	1,404,619
TOTAL ALL BUDGET FUND GROUPS		\$	1,409,119	\$	1,404,619

RELEASE OF FUNDS

The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 756-501, 757-501, and 758-501, State Support, shall be released upon approval by the Director of Budget and Management.

50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR

Of the foregoing appropriation item 747-501, State Support, Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be used for activities to commemorate the 50th anniversary of the Korean War. Commemorative activities shall be carried out by the Korean War Veterans Organization with input from the Governor's Office of Veterans Affairs and the other veterans organizations representing Korean War veterans.

AMERICAN EX-PRISONERS OF WAR

The American Ex-Prisoners of War shall be permitted to share an office with the Veterans of World War I.

CENTRAL OHIO UNITED SERVICES ORGANIZATION

Of the foregoing appropriation item 751-501, State Support, Vietnam Veterans of America, \$50,000 in each fiscal year shall be used to support the

activities of the Central Ohio USO.

VETERANS SERVICE COMMISSION EDUCATION

Of the foregoing appropriation item 753-501, State Support, AMVETS, up to \$20,000 in each fiscal year may be used to provide moneys to the Association of County Veterans Service Commissioners to reimburse its member county veterans service commissions for costs incurred in carrying out educational and outreach duties required under divisions (E) and (F) of section 5901.03 of the Revised Code. The Director of Budget and Management shall release these funds upon the presentation of an itemized receipt from the association for reasonable and appropriate expenses incurred while performing these duties. The association shall establish uniform procedures for reimbursing member commissions.

SECTION 111. DVM STATE VETERINARY MEDICAL BOARD

General Services Fund Group

4K9 888-609	Operating Expenses	\$	444,208	\$	453,043
TOTAL GSF General Services					
Fund Group		\$	444,208	\$	453,043
TOTAL ALL BUDGET FUND GROUPS					
		\$	444,208	\$	453,043

SECTION 112. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund

GRF 470-401	RECLAIM Ohio	\$	164,637,416	\$	167,697,792
GRF 470-412	Lease Rental Payments	\$	21,110,100	\$	21,110,000
GRF 470-510	Youth Services	\$	18,608,587	\$	18,608,587
GRF 472-321	Parole Operations	\$	15,347,154	\$	14,841,872
GRF 477-321	Administrative Operations	\$	14,427,323	\$	14,166,008
TOTAL GRF General Revenue Fund		\$	234,130,580	\$	236,424,259

General Services Fund Group

175 470-613	Education Reimbursement	\$	8,817,598	\$	8,817,598
4A2 470-602	Child Support	\$	311,302	\$	320,641
4G6 470-605	General Operational Funds	\$	10,000	\$	10,000
479 470-609	Employee Food Service	\$	118,454	\$	122,008
523 470-621	Wellness Program	\$	197,778	\$	197,778
TOTAL GSF General Services					
Fund Group		\$	9,455,132	\$	9,468,025

Federal Special Revenue Fund Group

3V5 470-604	Juvenile Justice/Delinquency Prevention	\$	4,091,100	\$	4,254,744
3W0 470-611	Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0
3Z8 470-625	Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000
3Z9 470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899
321 470-601	Education	\$	1,491,587	\$	1,555,147

Am. Sub. H. B. No. 95

2098

321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282
321	470-617	Americorps Programs	\$	460,000	\$	460,000
TOTAL FED Federal Special Revenue Fund Group			\$	27,680,313	\$	28,146,380
State Special Revenue Fund Group						
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000
TOTAL SSR State Special Revenue Fund Group			\$	3,035,240	\$	3,142,199
TOTAL ALL BUDGET FUND GROUPS			\$	274,301,265	\$	277,180,863

ZERO-BASED BUDGETING

The Director of Budget and Management shall prepare a full zero-based budget for the biennium beginning July 1, 2005, for the Department of Youth Services. The Director shall offer the Department substantial technical assistance throughout the process of preparing their zero-based budget. The Department shall prepare a full zero-based budget in such manner and according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments to the Ohio Building Authority for the period from July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for facilities made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,220,100. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

YOUTH SERVICES BLOCK GRANT

Of the foregoing appropriation item 470-510, Youth Services, \$50,000 in each fiscal year shall be distributed directly to Lighthouse Youth Services.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from

reimbursement for state surplus property.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item shall not be used for capital expenses.

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES

Any business relating to the funds associated with the Office of Criminal Justice Services' appropriation item 196-602, Criminal Justice Federal Programs, commenced but not completed by the Office of Criminal Justice Services or its director shall be completed by the Department of Youth Services or its director in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services or its director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered by the Department of Youth Services.

Any action or proceeding against the Office of Criminal Justice Services pending on the effective date of this section shall not be affected by the transfer of responsibility to the Department of Youth Services, and shall be prosecuted or defended in the name of the Department of Youth Services or its director. In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party.

SECTION 113. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD

Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves pursuant to the provisions of sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is appropriated for the period ending June 30, 2005.

SECTION 114. PERSONAL SERVICE EXPENSES

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public

employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section.

SECTION 115. REISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants pursuant to section 117.47 of the Revised Code, there is appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 116. * CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code, or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The Controlling Board may approve or disapprove the application as submitted or modified. The amount of an increase in

appropriation or new appropriation specified in an application approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the director does not make the application authorized by this section or the Controlling Board disapproves the application, and the director does not make application pursuant to division (C)(4) of section 2743.19 of the Revised Code, the director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 117. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 118. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Any appropriation may be used for the purpose of satisfying judgments or settlements in connection with civil actions against the state in federal court not barred by sovereign immunity or the Eleventh Amendment to the Constitution of the United States, or for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims in connection with civil actions against the state, pursuant to section 2743.15, 2743.19, or 2743.191 of the Revised Code. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, for or relating to lease payments or debt service on bonds, notes, or similar obligations and those from the Sports Facilities Building Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the Administrative Building Fund (Fund 026), the Adult Correctional Building Fund (Fund 027), the Juvenile Correctional Building Fund (Fund 028), the Transportation Building Fund (Fund 029), the Arts Facilities Building Fund (Fund 030), the Natural Resources Projects Fund (Fund 031), the School Building Program Assistance Fund (Fund 032), the Mental Health Facilities Improvement Fund (Fund 033), the Higher Education Improvement Fund (Fund 034), the Parks and Recreation Improvement Fund (Fund 035), the State Capital Improvements Fund (Fund 038), the Highway Obligation Fund (Fund 041), the Coal

Research/Development Fund (Fund 046), and any other fund into which proceeds of obligations are deposited. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, nor is it intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 119. * UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

The maximum amounts that may be assessed against nuclear electric utilities in accordance with division (B)(2) of section 4937.05 of the Revised Code are as follows:

	FY 2004	FY 2005
Department of Agriculture		
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059
Department of Health		
Fund 610 Radiation Emergency Response	\$923,315	\$923,315
Environmental Protection Agency		
Fund 644 ER Radiological Safety	\$281,424	\$286,114
Emergency Management Agency		
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000

SECTION 120. UNCLAIMED FUNDS TRANSFER

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2004, upon the request of the Director of Budget and Management, the Director of Commerce shall transfer to the General Revenue Fund up to \$25,000,000 of the unclaimed funds that have been reported by the holder of unclaimed funds as provided by section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section.

SECTION 121. GRF TRANSFER TO FUND 5N4, OAKS PROJECT IMPLEMENTATION

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer up to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2004, or as soon thereafter as possible, the Director of Budget and

Management shall transfer up to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation.

SECTION 122. FUND 4K9 TRANSFER TO GRF

On July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer \$2,000,000 in cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to the General Revenue Fund.

SECTION 123. CORPORATE AND UCC FILING FUND TRANSFER TO GRF

Not later than the first day of June in each year of the biennium, the Director of Budget and Management shall transfer \$1,000,000 from the Corporate and Uniform Commercial Code Filing Fund to the General Revenue Fund.

SECTION 124. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

SECTION 125. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

SECTION 126. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS

The Office of Budget and Management shall initiate and process disbursements from general obligation and lease rental payment

appropriation items during the period from July 1, 2003, to June 30, 2005, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, and Chapters 151., 154., and 3318. of the Revised Code. Disbursements shall be made upon certification by the Treasurer of State of the dates and amounts due on those dates.

SECTION 127. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations pursuant to section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

SECTION 128. APPROPRIATIONS RELATED TO CASH TRANSFERS AND REESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management as provided by section 126.15 of the Revised Code is appropriated. Any amounts necessary to reestablish appropriations or encumbrances as provided in section 126.15 of the Revised Code are appropriated.

SECTION 129. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management is authorized to cancel and reestablish all or parts of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to reestablish all or parts of encumbrances are appropriated.

SECTION 130. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs pursuant to section

126.12 of the Revised Code, the amount required for such purpose is appropriated from the available receipts of such fund.

SECTION 131. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management pursuant to this section shall not exceed the amounts transferred into the General Revenue Fund pursuant to division (B) of section 126.12 of the Revised Code.

A director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation plan pursuant to federal regulations, from any fund included in the Statewide Indirect Cost Allocation plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared pursuant to section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

SECTION 132. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(A) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year;

(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval

of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(C) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years.

Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year, pursuant to division (B) of this section, shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. This report to the board shall be updated on a quarterly basis for encumbrances remaining open.

Upon the expiration of the reappropriation period set out in divisions (A), (B), (C), or (D) of this section, a reappropriation made pursuant to this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

Notwithstanding the preceding paragraph, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July pursuant to this section for a period specified in division (C) or (D) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated pursuant to this section on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (C) or (D) of this section and shall remain available only for the purpose of discharging the encumbrance.

If the Controlling Board approved a purchase, that approval remains in effect as long as the appropriation used to make that purchase remains encumbered.

SECTION 133. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared pursuant to division (A) of section 126.12 of the Revised Code, may designate such funds as the

director considers necessary to retain their own interest earnings.

SECTION 134.01. That Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows:

Sec. 11. DOT DEPARTMENT OF TRANSPORTATION

FUND	TITLE		FY 2004		FY 2005
Transportation Planning and Research					
Highway Operating Fund Group					
002	771-411	Planning and Research - State	\$ 14,548,950	\$	15,070,100
002	771-412	Planning and Research - Federal	\$ 35,193,300	\$	35,644,900
TOTAL HOF Highway Operating					
Fund Group					
			\$ 49,742,250	\$	50,715,000
TOTAL ALL BUDGET FUND GROUPS -					
Transportation Planning and Research					
			\$ 49,742,250	\$	50,715,000
Highway Construction					
Highway Operating Fund Group					
002	772-421	Highway Construction - State	\$ 485,577,430	\$	442,367,300
002	772-422	Highway Construction - Federal	\$ 762,964,700	\$	766,001,700
002	772-424	Highway Construction - Other	\$ 70,000,000	\$	51,000,000
212	770-005	Infrastructure Debt Service - Federal	\$ 72,064,200	\$	78,696,100
212	772-423	Infrastructure Lease Payments - Federal	\$ 12,537,800	\$	12,537,300
212	772-426	Highway Infrastructure Bank - Federal	\$ 2,740,000	\$	2,620,000
212	772-427	Highway Infrastructure Bank - State	\$ 11,000,000	\$	11,000,000
TOTAL HOF Highway Operating					
Fund Group					
			\$ 1,416,884,130	\$	1,364,222,400
Highway Capital Improvement Fund Group					
042	772-723	Highway Construction - Bonds	\$ 220,000,000	\$	220,000,000
TOTAL 042 Highway Capital					
Improvement Fund Group					
			\$ 220,000,000	\$	220,000,000
Infrastructure Bank Obligations Fund Group					
045	772-428	Highway Infrastructure Bank - Bonds	\$ 40,000,000	\$	40,000,000
TOTAL 045 Infrastructure Bank					
Obligations Fund Group					
			\$ 40,000,000	\$	40,000,000
TOTAL ALL BUDGET FUND GROUPS -					
Highway Construction					
			\$ 1,678,384,130	\$	1,627,222,400
Highway Maintenance					
Highway Operating Fund Group					
002	773-431	Highway Maintenance - State	\$ 394,605,100	\$	413,082,600
TOTAL HOF Highway Operating					
Fund Group					
			\$ 394,605,100	\$	413,082,600

Am. Sub. H. B. No. 95

2108

TOTAL ALL BUDGET FUND GROUPS -
 Highway Maintenance \$ 394,605,100 \$ 413,082,600

Public Transportation

Highway Operating Fund Group

002 775-452 Public Transportation - Federal \$ 27,000,000 \$ 27,000,000

002 775-454 Public Transportation - Other \$ 1,500,000 \$ 1,500,000

002 775-459 Elderly and Disabled Special Equipment - Federal \$ 4,230,000 \$ 4,230,000

TOTAL HOF Highway Operating Fund Group \$ 32,730,000 \$ 32,730,000

TOTAL ALL BUDGET FUND GROUPS - Public Transportation \$ 32,730,000 \$ 32,730,000

Rail Transportation

Highway Operating Fund Group

002 776-462 Grade Crossings - Federal \$ 15,000,000 \$ 15,000,000

TOTAL HOF Highway Operating Fund Group \$ 15,000,000 \$ 15,000,000

~~State Special Revenue Fund Group~~

~~4A3 776-665 Railroad Crossing Safety Devices \$ 1,000,000 \$ 0~~

~~TOTAL SSR State Special Revenue Fund Group \$ 1,000,000 \$ 0~~

TOTAL ALL BUDGET FUND GROUPS -

Rail Transportation \$ ~~16,000,000~~
15,000,000 \$ 15,000,000

Aviation

Highway Operating Fund Group

002 777-472 Airport Improvements - Federal \$ 405,000 \$ 405,000

002 777-475 Aviation Administration \$ 4,064,700 \$ 4,139,000

TOTAL HOF Highway Operating Fund Group \$ 4,469,700 \$ 4,544,000

TOTAL ALL BUDGET FUND GROUPS - Aviation \$ 4,469,700 \$ 4,544,000

Administration

State Special Revenue Fund Group

4T5 770-609 Administration Memorial Fund \$ 5,000 \$ 5,000

TOTAL SSR State Special Revenue

Fund Group \$ 5,000 \$ 5,000

Highway Operating Fund Group

002 779-491 Administration - State \$ 116,449,900 \$ 121,986,500

TOTAL HOF Highway Operating Fund Group \$ 116,449,900 \$ 121,986,500

TOTAL ALL BUDGET FUND GROUPS - Administration \$ 116,454,900 \$ 121,991,500

Debt Service

Highway Operating Fund Group

002 770-003 Administration - State - Debt \$ 13,802,600 \$ 13,395,900

Service			
TOTAL HOF Highway Operating			
Fund Group	\$	13,802,600	\$ 13,395,900
TOTAL ALL BUDGET FUND GROUPS -			
Debt Service	\$	13,802,600	\$ 13,395,900

TOTAL Department of Transportation

TOTAL HOF Highway Operating			
Fund Group	\$	2,043,683,680	\$ 2,015,676,400
TOTAL 042 Highway Capital			
Improvement Fund Group	\$	220,000,000	\$ 220,000,000
TOTAL 045 Infrastructure Bank			
Obligations Fund Group	\$	40,000,000	\$ 40,000,000
TOTAL SSR State Special Revenue			
Fund Group	\$	~~1,005,000~~	\$ 5,000
		<u>5,000</u>	
TOTAL ALL BUDGET FUND GROUPS	\$	~~2,304,688,680~~	\$ 2,275,681,400
		<u>2,303,688,680</u>	

Sec. 11.04. PUBLIC ACCESS ROADS FOR STATE FACILITIES

Of the foregoing appropriation item 772-421, Highway Construction - State, \$3,145,500 is to be used each fiscal year during the 2003-2005 biennium by the Department of Transportation for the construction, reconstruction, or maintenance of public access roads, including support features, to and within state facilities owned or operated by the Department of Natural Resources, as requested by the Director of Natural Resources.

Notwithstanding section 5511.06 of the Revised Code, of the foregoing appropriation item 772-421, Highway Construction - State, \$2,228,000 in each fiscal year of the 2003-2005 biennium shall be used by the Department of Transportation for the construction, reconstruction, or maintenance of park drives or park roads within the boundaries of metropolitan parks.

Included in the foregoing appropriation item 772-421, Highway Construction - State, the department may perform related road work on behalf of the Ohio Expositions Commission at the state fairgrounds, including reconstruction or maintenance of public access roads, including support features, to and within the facilities as requested by the commission and approved by the Director of Transportation.

LIQUIDATION OF UNFORESEEN LIABILITIES

Any appropriation made to the Department of Transportation, Highway Operating Fund, not otherwise restricted by law, is available to liquidate unforeseen liabilities arising from contractual agreements of prior years when the prior year encumbrance is insufficient.

~~RUMBLE STRIPS AT RAILROAD CROSSINGS~~

~~Of the foregoing appropriation item 776-665, Railroad Crossing Safety Devices, \$1,000,000 in fiscal year 2004 shall be used by the Department of Transportation to fund competitive grants to political subdivisions for the~~

cost of putting rumble strips at active railroad crossings without gates or lights. The maximum amount of a competitive grant is \$50,000 for any single crossing. Each political subdivision with jurisdiction over a crossing may apply to the Department for a competitive grant for the costs of putting rumble strips at crossings. Those political subdivisions awarded grants shall install the rumble strips by December 1, 2004. Those political subdivisions awarded such grants shall not use the moneys as matching funds for any ~~other state rail safety programs.~~

If rumble strips are not appropriate for a crossing, the Department may allow the political subdivision which is awarded the grant to use the funding ~~for a safety device or technology more appropriate for the crossing.~~

The Department shall notify each political subdivision with jurisdiction over a crossing of the requirements of this section that funding is available for rumble strips at crossings and for other rail crossing safety improvements. The Department also shall notify associations representing ~~political subdivisions of the availability of the funding.~~

The Department shall spend no more than five per cent of the ~~appropriation item on Department administrative expenses.~~

The Department shall issue a report on or before June 30, 2005, describing the activities carried out by the Department to comply with the provisions of this section. The report shall include the number of crossings at which rumble strip installation was completed, the cost of each installation to date, the number of active crossings without gates or lights that still do not have rumble strips, and a geographic breakdown of where ~~the crossings are that have and have not yet received rumble strips.~~

All appropriations in Fund 4A3, appropriation item 776-665, Railroad Crossing Safety Devices, remaining unencumbered on June 30, 2004, are hereby reappropriated for the same purpose in fiscal year 2005. The ~~Department shall report all such appropriations to the Controlling Board.~~

SECTION 134.02. That existing Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly are hereby repealed.

SECTION 134.03. That Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows:

Sec. 13.05. EMERGENCY MANAGEMENT

Federal Special Revenue Fund Group

3N5	763-644	U.S. DOE Agreement	\$	266,000	\$	275,000
329	763-645	Individual/Family Grant - Fed	\$	303,504	\$	303,504
337	763-609	Federal Disaster Relief	\$	~~5,000,000~~	\$	3,000,000

Am. Sub. H. B. No. 95

			2111			
				<u>23,000,000</u>		
			\$	~~129,622,000~~	\$	~~129,622,000~~
339	763-647	Emergency Management Assistance and Training		<u>111,622,000</u>		<u>111,622,000</u>
TOTAL FED Federal Special						
Revenue Fund Group						
			\$	135,191,504	\$	~~133,200,504~~
						<u>115,200,504</u>
General Services Fund Group						
4V3	763-662	EMA Service and Reimbursement	\$	696,446	\$	696,446
533	763-601	State Disaster Relief	\$	7,500,000	\$	7,500,000
TOTAL GSF General Services Fund Group						
			\$	8,196,446	\$	8,196,446
State Special Revenue Fund Group						
657	763-652	Utility Radiological Safety	\$	1,200,000	\$	1,260,000
681	763-653	SARA Title III HAZMAT Planning	\$	264,510	\$	271,510
TOTAL SSR State Special Revenue Fund Group						
			\$	1,464,510	\$	1,531,510
TOTAL ALL BUDGET FUND GROUPS - Emergency Management						
			\$	144,852,460	\$	~~142,928,460~~
						<u>124,928,460</u>

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 681) shall receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

STATE DISASTER RELIEF

The foregoing appropriation item 763-601, State Disaster Relief, may accept transfers of cash and appropriations from Controlling Board appropriation items to reimburse eligible local governments and private nonprofit organizations for costs related to disasters that have been declared by local governments or the Governor. The Ohio Emergency Management Agency shall publish and make available an application packet outlining eligible items and application procedures for entities requesting state disaster relief.

Individuals may be eligible for reimbursement of costs related to disasters that have been declared by the Governor and the Small Business Administration. The funding in appropriation item 763-601, State Disaster Relief, shall be used in accordance with the principles of the federal Individual and Family Grant Program, which provides grants to households that have been affected by a disaster to replace basic living items. The Ohio Emergency Management Agency shall publish and make available an application procedure for individuals requesting assistance under the state Individual Assistance Program.

EMA SERVICE AND REIMBURSEMENT FUND

On July 1, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) to the EMA Service and Reimbursement Fund (Fund 4V3), created in section 5502.39 of the Revised Code. Upon the completion of the transfer, notwithstanding any other provision of law to the contrary, the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) are abolished. The director shall cancel any existing encumbrances against appropriation items 763-654, EMA Utility Payment, and 763-655, Salvage and Exchange-EMA, and reestablish them against appropriation item 763-662, EMA Service and Reimbursement. The amounts of the reestablished encumbrances are hereby appropriated.

SECTION 134.04. That existing Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly is hereby repealed.

SECTION 134.05. That section 7 of Am. Sub. H.B. 512 of the 124th General Assembly be amended to read as follows:

Sec. 7. Division (A) (4) of section 2915.08 of the Revised Code shall not be applied until ~~one year after the effective date of this act~~ January 31, 2004.

SECTION 134.06. That existing Section 7 of Am. Sub. H.B. 512 of the 124th General Assembly is hereby repealed.

SECTION 134.07. That Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly be amended to read as follows:

Sec. 1.09. Sections 1.07 and 1.08 of ~~this act~~ H.B. 675 of the 124th General Assembly take effect ~~July~~ January 1, 2003 2004.

Sec. 35.03. Section 5739.031 of the Revised Code takes effect ~~July 1, 2003~~ January 1, 2004.

SECTION 134.08. That existing Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly are hereby repealed.

SECTION 134.09. The amendment by this act of Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

SECTION 134.10. That Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly be amended to read as follows:

			Appropriations
Sec. 18.03. DMH DEPARTMENT OF MENTAL HEALTH			
CAP-479	Community Assistance Projects	\$	<u>3,912,500</u>
			<u>3,662,500</u>
CAP-906	Campus Consolidation/Automation	\$	12,040,000
CAP-978	Infrastructure Improvements	\$	3,460,000
Total Department of Mental Health		\$	<u>19,412,500</u>
			<u>19,162,500</u>

COMMUNITY ASSISTANCE PROJECTS

Of the foregoing appropriation item CAP-479, Community Assistance Projects, ~~\$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County~~ \$250,000 shall be used for the Berea Children's Home.

Sec. 18.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

		Appropriations	
STATEWIDE AND CENTRAL OFFICE PROJECTS			
CAP-480	Community Assistance Projects	\$	<u>9,441,000</u>
			<u>9,691,000</u>
CAP-955	Statewide Development Centers	\$	3,959,000
Total Statewide and Central Office Projects		\$	<u>13,400,000</u>
			<u>13,650,000</u>
TOTAL Department of Mental Retardation and Developmental Disabilities		\$	<u>13,400,000</u>
			<u>13,650,000</u>
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$	33,079,012

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or

renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, Community Assistance Projects, \$150,000 shall be used for the Fostoria Area Community Childhood and Family Center; ~~\$250,000 shall be used for the Berea Children's Home; and \$1,000,000 shall be used for the Bellefaire Jewish Children's Bureau; and \$500,000 shall be used for the Achievement Centers~~ for Children in Cuyahoga County.

Appropriations

Sec. 19.39. BTC BELMONT TECHNICAL COMMUNITY COLLEGE

CAP-008	Basic Renovations	\$	214,638
Total Belmont ~~Technical~~ <u>Community College</u>		\$	214,638

Sec. 19.52. The requirements of Chapters 123. and 153. of the Revised Code, with respect to the powers and duties of the Director of Administrative Services, and the requirements of section 127.16 of the Revised Code, with respect to the Controlling Board, shall not apply to projects of community college districts, which include Belmont Community College, Cuyahoga Community College, Jefferson Community College, Lakeland Community College, Lorain County Community College, Rio Grande Community College, and Sinclair Community College; and technical college districts which include ~~Belmont Technical College~~, Central Ohio Technical College, Hocking Technical College, Lima Technical College, Marion Technical College, Muskingum Area Technical College, North Central Technical College, and Stark Technical College.

SECTION 134.11. That existing Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly are hereby repealed.

SECTION 134.12. That Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. S.B. 261 of the 124th General Assembly, be amended to read as follows:

Sec. 63.37. NURSING FACILITY STABILIZATION FUND

(A) As used in this section:

(1) ~~"Inpatient Franchise permit fee"~~ "Inpatient Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.

(2) ~~"Inpatient days"~~ "Inpatient days" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

~~(2)~~(3) "Medicaid day" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(B) The Department of Job and Family Services shall use money in the Nursing Facility Stabilization Fund created under section 3721.56 of the Revised Code to do all of the following:

~~(1)~~ Make payments to nursing facilities under ~~sections 5111.20 to 5111.32~~ Chapter 5111. of the Revised Code;

~~(2)~~ Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for each Medicaid day in fiscal year 2002 in an amount equal to sixty-nine and seven-tenths per cent of the franchise permit fee the nursing facility pays ~~under section 3721.53 of the Revised Code~~ for the fiscal year the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;

~~(3)~~ Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for each Medicaid day in fiscal years 2003, 2004, and 2005 in an amount equal to seventy-six and seventy-four-hundredths per cent of the franchise permit fee the nursing facility pays ~~under section 3721.53 of the Revised Code~~ for the fiscal year the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;

(4) Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for fiscal year 2002 in an amount equal to one dollar and fifty cents per Medicaid day for the purpose of enhancing quality of care;

~~(5)~~ Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for fiscal years 2003, 2004, and 2005 in an amount equal to two dollars and twenty-five cents per Medicaid day for the purpose of enhancing quality of care.

(C) Any money remaining in the Nursing Facility Stabilization Fund after payments specified in division (B) of this section are made for fiscal years 2002, 2003, 2004, and 2005 shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make payments in accordance with division (B) of

this section.

~~(D) Notwithstanding division (N) of section 5111.20 of the Revised Code, the Department of Job and Family Services, in making Medicaid payments to a nursing facility under sections 5111.20 to 5111.32 Chapter 5111. of the Revised Code, shall do both of the following:~~

~~(1) Exclude from a nursing facility's other protected costs the cost of sixty nine and seven tenths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal year 2002 if the nursing facility receives payments under division (B)(2) of this section for sixty nine and seven tenths per cent of those franchise permit fees;~~

~~(2) Exclude from a nursing facility's other protected costs the cost of seventy six and seventy four hundredths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal years 2003, 2004, and 2005 if the nursing facility receives payments under division (B)(2) of this section for seventy six and seventy four hundredths per cent of those franchise permit fees A nursing facility filing its cost report with the Department of Job and Family Services under section 5111.26 of the Revised Code shall do all of the following:~~

~~(1) For the nursing facility's cost report covering calendar year 2003, report as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2003 and the first half of fiscal year 2004.~~

~~(2) For the nursing facility's cost report covering calendar year 2004, report as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2004 and the first half of fiscal year 2005.~~

~~(3) For the nursing facility's cost report covering calendar year 2005, report, for the first half of the calendar year, as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2005.~~

(E) The limitation of Section 230 of Am. Sub. H.B. 94 of the 124th General Assembly is not applicable to the amendments made by this act to this section.

SECTION 134.13. That existing Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. S.B. 261

of the 124th General Assembly, is hereby repealed.

SECTION 134.14. That Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly be amended to read as follows:

Sec. 3. Sections ~~5739.021, 5739.023, 5739.026, 5739.03, 5739.031, 5739.033,~~ 5739.12, 5741.02, and 5741.12, and division (I)(7) of section 5741.01 of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, and sections 306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 5741.08 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect July 1, 2003. Sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code, as amended by Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect January 1, 2004.

SECTION 134.15. That existing Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly is hereby repealed.

SECTION 134.16. The amendment by this act of Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

SECTION 135. The amendments to sections 5739.021, 5739.023, and 5739.026 of the Revised Code by Am. Sub. S.B. 143 of the 124th General Assembly apply to levies proposed by a resolution adopted on or after January 1, 2004, and do not apply to levies proposed by a resolution adopted before that date.

SECTION 136. Sections 131G, 131H, 131I, and 131J of this act intend to delay the scheduled July 1, 2003, effective date of sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code until January 1, 2004.

SECTION 137.01. That Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly be amended to read as follows:

Sec. 10. NET SCHOOLNET COMMISSION

Tobacco Master Settlement Agreement Fund Group

S87 228-602	Education Technology Trust	\$	16,500,000	\$	16,500,000
	Fund				

TOTAL TSF Tobacco Master
Settlement Agreement Fund

Group		\$	16,500,000	\$	16,500,000
TOTAL ALL BUDGET FUND GROUPS		\$	16,500,000	\$	16,500,000

EDUCATION TECHNOLOGY TRUST FUND

The foregoing appropriation item 228-602, Education Technology Trust Fund, shall be used by the SchoolNet Commission for grants to school districts and other entities and for the costs of administering these grants. Of the total amount for grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio ONEnet project, \$909,247 in fiscal year 2003 shall be used for the INFOhio Network, \$298,750 in fiscal year 2003 shall be used for the JASON Project, \$1,000,000 in fiscal year 2003 shall be used for RISE Learning Solutions, and \$200,000 in fiscal year 2003 shall be used for the Stark County School Teacher Technical Training Center. The remaining amount for grants shall be made to school districts.

The JASON Project shall provide funding for statewide access and a seventy-five per cent subsidy for statewide licensing of JASON content for 90,000 middle school students statewide, and professional development for teachers participating in the JASON Project.

It is the intent of the General Assembly that the SchoolNet Commission, in conjunction with RISE Learning Solutions, shall develop a program that may be conducted in conjunction with state-supported technology programs, including, but not limited to, SchoolNet Commission appropriation item 228-406, Technical and Instructional Professional Development, and appropriation item 228-539, Education Technology, and that shall be designed to educate preschool staff members and providers on developmentally appropriate teaching methods, behavior guidance, and literacy and to involve parents more closely in the education and development of their children. The program shall include an interactive instructional component, delivered using satellite television, Internet, and with facilitation, and shall be distributed to program participants using the established satellite receiver dishes on public schools, Head Start centers, and childcare centers at up to 100 locations throughout the state. The interactive instructional component of the program shall be developed to enhance the professional development, training, and performance of preschool staff members, the education and care-giving skills of the parents of preschool children, and the preparation of preschool-age children for learning.

The program shall utilize the grant to continue a direct-service component that shall include at least three teleconferences that may be distributed by Ohio-based public television utilizing satellite or microwave technology in a manner designed to promote interactive communications between the program participants located at subsites within the Ohio Educational Broadcast Network or as determined by the commission. Program participants shall communicate with trainers and participants at other program sites through telecommunications and facsimile and on-line computer technology. As much as possible, the direct-service component shall utilize systems currently available in state-supported technology programs and conduct the component in a manner that promotes innovative, interactive communications between program participants at all the sites. Parent support groups and teacher training sessions shall supplement the teleconferences and shall occur on a local basis.

RISE Learning Solutions may subcontract components of the program.

Individuals eligible to participate in the program include those children, their parents, custodians, or guardians, and preschool staff members who are eligible to participate in a preschool program as defined in division (A) of section 3301.52 and section 5104.02 of the Revised Code.

The components of the program, including two that shall be developed in support of teacher proficiency in teaching reading to prekindergarten and kindergarten to third grade students, at the direction of the Department of Education, may include: two three-hour broadcast seminars from a central up-link station, distributed in up to 88 counties; high production-value video sought in various locations; and direct interactive adult learning activities. These two components shall include development of workbooks and involve at least three small, group-facilitated follow-up discussion workshops and development and distribution of at least two home videos. The program shall also provide Internet access, interactive lines, bulletin board, and CD-ROM.

Upon completion of each of the school years for which the grant was made, RISE Learning Solutions shall issue a report to the commission and members of the General Assembly explaining the goals and objectives determined, the activities implemented, the progress made toward the achievement of the goals and objectives, and the outcome of the program.

The commission shall use the remaining appropriation authority in fiscal year 2003 and appropriation authority granted in fiscal year 2004 to establish and equip, through the SchoolNet Plus Program, at least one interactive computer station for each five children enrolled in the sixth grade as determined by a three-year average adjusted per pupil property valuation

pursuant to division (A) of section 3317.03 of the Revised Code. Districts in the first two quartiles of wealth shall receive up to \$380 per pupil for students in grade six to purchase classroom computers for the sixth grade. Districts in the third and fourth quartile shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a district has met the state's goal of one computer to every five students, the district may use funds provided through the SchoolNet Plus Program to purchase computers for grade seven or to fulfill educational technology needs on other grades as specified in the district's technology plan. When there is at least one computer for each five children enrolled in the sixth grade, SchoolNet shall use any remaining funds appropriated to establish and equip at least one interactive computer workstation for each five children enrolled in the seventh grade as determined by the previously defined formula.

Sec. 14. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Education Facilities Trust Fund (Fund N87) that are not otherwise appropriated.

		Appropriations	
SFC SCHOOL FACILITIES COMMISSION			
CAP-780	Classroom Facilities Assistance Program	\$	~~148,400,000~~ <u>25,600,000</u>
Total School Facilities Commission		\$	~~148,400,000~~ <u>25,600,000</u>
TOTAL Education Facilities Trust Fund		\$	~~148,400,000~~ <u>25,600,000</u>

SECTION 137.02. That existing Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly is hereby repealed.

SECTION 137.03. That Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly be amended to read as follows:

		Reappropriations	
Sec. 24.43. BTC BELMONT ~~TECHNICAL~~ <u>COMMUNITY</u> COLLEGE			
CAP-008	Basic Renovations	\$	653,372
CAP-014	Main Building Renovation - Phase 3	\$	49,137
CAP-019	ADA Modifications	\$	45,915
Total Belmont ~~Technical~~ <u>Community</u> College		\$	748,424

SECTION 137.04. That existing Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly is hereby repealed.

SECTION 137.05. That Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. Section 1751.68 of the Revised Code is hereby repealed, effective October 16, ~~2003~~ 2005.

SECTION 137.06. That existing Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.07. * That Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code are hereby repealed, effective ~~July 1, 2003~~ October 15, 2005.

SECTION 137.08. * That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.09. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2003~~ 2005.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2003~~ 2005, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 137.10. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.11. * That Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, be amended to read as follows:

Sec. 27. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2004:

AGENCY NAME	REVISED CODE OR ~~UNCODIFIED~~ <u>UNCODIFIED</u> SECTION
Advisory Council on Amusement Ride Safety	1711.51
Advisory Board of Directors for Prison Labor	5145.162
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA
Apprenticeship Council	4111.26
Armory Board of Control	5911.09
Banking Commission	1123.01
Board of Voting Machine Examiners	3506.05(B)
Board of Governors, Medical Malpractice Joint	3929.77
Underwriting Association	
Board of Tax Appeals	5703.02
Brain Injury Advisory Committee ~~Committee~~	3304.231
	~~3304.231~~
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3113.215(G)
Children's Trust Fund Board	3109.15
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Citizen's Advisory Council (Dept. of Mental Health)	5119.81
~~Civilian Conservation Advisory Committee~~	~~1553.10~~
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12

Commission on Hispanic-Latino Affairs	121.31
Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353
Continuing Education Committee (for sheriffs)	109.80
Controlling Board	127.12
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mine Lands	1513.29
County Sheriffs' Standard Car Marking and Uniform Commission	311.25
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Development Financing Advisory Council	122.40
Electrical Safety Inspector Advisory Committee	3783.08
Engineering Experiment Station Advisory Committee	3335.27
Environmental Review Appeals Commission	3745.02
Environmental Education Council	3745.21
Forestry Advisory Council	1503.40
Governor's Community Service Council	121.40
Governor's Council on People with Disabilities	3303.41
~~Hazardous Waste Facility Board~~	~~3734.05~~
Health Care Quality Advisory Council	4121.442
Health Data Advisory Committee	3729.61
Hemophilia Advisory Council	3701.145
Historic Site Preservation Advisory Board	149.301
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76
Industrial Commission	4121.02
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Insurance Agent Education Advisory Council	3905.483
Interagency Recycling Market Development Workgroup	1502.10
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60

Martha Kinney Cooper Ohioana Library	3375.62
Association Board of Trustees	
Maternal and Child Health Council	3701.025
~~Medicaid Long-Term Care Reimbursement Study~~	~~5111.34~~
~~Council~~	
Medically Handicapped Children's Medical	3701.025
Advisory Council	
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51
Multi-Agency Radio Communication Systems	Sec. 21, H.B.
Steering Committee	790, 120th GA
Multidisciplinary Council	3746.03
National Museum of Afro-American History and	149.303
Culture Planning Committee	
<u>Nursing Facility Reimbursement Study Council</u>	<u>5111.34</u>
Ohio Advisory Council for the Aging	173.03
Ohio Arts Council	3379.02
Ohio Arts and Sports Facilities Commission	3383.02
Ohio Benefit Systems Data Linkage Committee	125.24
Ohio Bicentennial Commission	149.32
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Commission on Dispute Resolution and	179.02
Conflict Management	
Ohio Educational Telecommunications Network	3353.02
Commission	
Ohio Ethics Commission	102.05
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Historical Society Board of Trustees	149.30
Ohio Lake Erie Commission	1506.21
Ohio Medical Quality Foundation	3701.89
Ohio Natural Areas Council	1517.03
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Quarter Horse Development Commission	3769.086
Ohio Scenic Rivers Advisory Councils	1517.18
Ohio Small Government Capital Improvements	164.02

Commission	
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio Veterans' Home Board of Trustees	5907.02
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Oil and Gas Commission	1509.35
Organized Crime Investigations Commission	177.01
Parole Board	5149.10
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81
Physical Fitness and Sports Advisory Board	3701.77
Power Siting Board	4906.02
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Utilities Commission Nominating Council	4901.021
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer Advisory Committee	3304.24
Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA
Services Committee of the Workers' Compensation System	4121.06
Set Aside Review Board	123.151(C)(4)
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Board of Deposit	135.02
State Board of Library Examiners	3375.47

State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Fire Commission	3737.81
State and Local Government Commission of Ohio	105.45
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55
Submerged Lands Advisory Council	1506.37
Tax Credit Authority	122.17
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Veterans Advisory Committee	5902.02(K)
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Welfare Oversight Council	5101.93
Wildlife Council	1531.03
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA
Wright-Dunbar State Heritage Commission	149.321

SECTION 137.12. * That existing Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, is hereby repealed.

SECTION 137.13. That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~2003~~ 2005.

SECTION 137.14. That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.15. That Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly be amended to read as follows:

Sec. 2. Sections ~~1742.42~~, 3901.49, and 3901.50 of the Revised Code are hereby repealed, effective ~~ten years after the effective date of this act~~ February 9, 2014. The repeal of these sections shall apply only to contracts and policies that are delivered, issued for delivery, or renewed in this state on or after that date, and to plans of self-insurance that are established or modified in this state on or after that date.

SECTION 137.16. That existing Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly is hereby repealed.

SECTION 137.17. That Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly be amended to read as follows:

Sec. 6. Section 1751.64 of the Revised Code is hereby repealed, effective February 9, ~~2004~~ 2014. The repeal of that section shall apply only to contracts that are delivered, issued for delivery, or renewed in this state on or after that date.

SECTION 137.18. That existing Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly is hereby repealed.

SECTION 137.19. Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly as amended by Am. Sub. H.B. 94 of the 124th General Assembly is hereby repealed.

SECTION 137.20. Section 3 of Sub. H.B. 403 of the 123rd General Assembly is hereby repealed.

SECTION 137.21. Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly is hereby repealed.

SECTION 137.22. * (A) Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 123rd General Assembly, is hereby repealed.

(B) Notwithstanding the repeal of Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, prescribed in division (A) of this section, a school district that is participating in the School Building Assistance Expedited Local Partnership Program under section 3318.36 of the Revised Code may apply as local resources under that program those expenditures described in Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, if, and only if, all the following conditions are satisfied:

(1) The school district's project was conditionally approved by the Ohio School Facilities Commission and subsequently approved by the Controlling Board under division (D)(1) of section 3318.36 of the Revised Code not later than one hundred eighty days after the effective date of this section.

(2) The school district board of education and the Commission entered into an agreement under section 3318.36 of the Revised Code, not later than one hundred eighty days after the effective date of this section, for the district to acquire the discrete part of the project under the Expedited Local Partnership Program, as identified by the school district board under division (D)(1) of section 3318.36 of the Revised Code.

SECTION 137.23. That Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

SECTION 137.24. That Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly is hereby repealed. The intent of this repeal is to remove the limitation upon the continued existence of sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of the Revised Code. This intent is not affected by the rule of statutory interpretation contained in section 1.57 of the Revised Code.

SECTION 137.25. That Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly is hereby repealed.

SECTION 138. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT AGREEMENT FUND TO THE GENERAL REVENUE FUND

Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2004, the Director of Budget and Management may transfer up to \$242,800,000 to the General Revenue Fund from the Tobacco Master Settlement Agreement Fund (Fund 087), as provided in divisions (A) and (B) of this section:

(A) Up to \$120,000,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

(B) Up to \$122,800,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

SECTION 139. TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS

(A) On or before the seventh day of each month of the period July 2003

through June 2005, the Tax Commissioner shall determine and certify to the Director of Budget and Management the amount to be credited, by tax, during that month to the Local Government Fund, to the Library and Local Government Support Fund, and to the Local Government Revenue Assistance Fund, respectively, pursuant to divisions (B), (C), and (D) of this section.

(B) Notwithstanding section 5727.84 of the Revised Code to the contrary, for the period July 1, 2003, through June 30, 2005, no amounts shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund from the kilowatt hour tax, and such amounts that would have otherwise been required to be credited to such funds shall instead be credited to the General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, for each month in the period July 1, 2003, through June 30, 2005, from the public utility excise, corporate franchise, sales, use, and personal income taxes collected;

(1) An amount shall first be credited to the Local Government Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section.

(2) An amount shall next be credited to the Local Government Revenue Assistance Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section.

(3) An amount shall next be credited to the Library and Local Government Support Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2004 pursuant to division (C) of this section, the amount credited in fiscal year 2003 shall be before the transfer made from the Library and Local Government Support Fund to the OPLIN Technology Fund under Section 70 of Am. Sub. H.B. 94 of the 124th General Assembly. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2005 pursuant to division (C) of this section, the amount credited in fiscal year 2004 shall be before any transfer required to be made from the Library and Local Government Support Fund to the OPLIN Technology Fund.

(C) The amounts shall be credited from each tax to each respective fund as follows:

(1) In July 2003, one hundred per cent of the amount credited in July 2002; in July 2004, one hundred per cent of the amount credited in July

2003;

(2) In August 2003, one hundred per cent of the amount credited in August 2002; in August 2004, one hundred per cent of the amount credited in August 2003;

(3) In September 2003, one hundred per cent of the amount credited in September 2002; in September 2004, one hundred per cent of the amount credited in September 2003;

(4) In October 2003, one hundred per cent of the amount credited in October 2002; in October 2004, one hundred per cent of the amount credited in October 2003;

(5) In November 2003, one hundred per cent of the amount credited in November 2002; in November 2004, one hundred per cent of the amount credited in November 2003;

(6) In December 2003, one hundred per cent of the amount credited in December 2002; in December 2004, one hundred per cent of the amount credited in December 2003;

(7) In January 2004, one hundred per cent of the amount credited in January 2003; in January 2005, one hundred per cent of the amount credited in January 2004;

(8) In February 2004, one hundred per cent of the amount credited in February 2003; in February 2005, one hundred per cent of the amount credited in February 2004;

(9) In March 2004, one hundred per cent of the amount credited in March 2003; in March 2005, one hundred per cent of the amount credited in March 2004;

(10) In April 2004, one hundred per cent of the amount credited in April 2003; in April 2005, one hundred per cent of the amount credited in April 2004;

(11) In May 2004, one hundred per cent of the amount in division (C)(11)(a) of this section; in May 2005, one hundred per cent of the amount in division (C)(11)(b) of this section;

(a) The amount credited in May 2003, less any amount reduced pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly and as amended by Am. Sub. H.B. 390 of the 124th General Assembly;

(b) The amount credited in May 2004.

(12) In June 2004, one hundred per cent of the amount in division (C)(12)(a) of this section, less any reduction required under division (D)(1) of this section; in June 2005, one hundred per cent of the amount in division

(C)(12)(b) of this section, less any reduction required under division (D)(2) of this section;

(a) The amount credited in June 2003 before any reduction made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly and as amended by Am. Sub. H.B. 390 of the 124th General Assembly;

(b) The amount credited in June 2004.

(D) The Tax Commissioner shall do each of the following:

(1) By June 7, 2004, the commissioner shall subtract the amount calculated in division (D)(1)(b) of this section from the amount calculated in division (D)(1)(a) of this section. If the amount in division (D)(1)(a) of this section is greater than the amount in division (D)(1)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2004. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only if, and according to the proportion by which, such fund contributed to the result that the amount in division (D)(1)(a) of this section exceeds the amount in division (D)(1)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2003 through May 2004;

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(2) By June 7, 2005, the commissioner shall subtract the amount calculated in division (D)(2)(b) of this section from the amount calculated in division (D)(2)(a) of this section. If the amount in division (D)(2)(a) of this section is greater than the amount in division (D)(2)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2005. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only

if, and according to the proportion by which, such fund contributed to the result that the amount in division (D)(2)(a) of this section exceeds the amount in division (D)(2)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005;

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) On the advice of the Tax Commissioner, during any month other than June 2004 or June 2005 of the period July 1, 2003, through July 31, 2005, the Director of Budget and Management may reduce the amounts that are to be otherwise credited to the Local Government Fund, Local Government Revenue Assistance Fund, or Library and Local Government Support Fund in order to accomplish more effectively the purposes of the adjustments in divisions (D)(1) and (2) of this section. If the respective calculations made in June 2004 and June 2005 pursuant to divisions (D)(1) and (2) of this section indicate that excess reductions had been made during the previous months, such excess amounts shall be credited, as appropriate, to the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund.

(E) Notwithstanding any other provision of law to the contrary, the total amount credited to each fund in each month during the period July 2003 through June 2005 shall be distributed by the tenth day of the immediately succeeding month in the following manner:

(1) Each county undivided local government fund shall receive a distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(2) Each municipality receiving a direct distribution from the Local Government Fund shall receive a distribution based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(3) Each county undivided local government revenue assistance fund shall receive a distribution from the Local Government Revenue Assistance Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(4) Each county undivided library and local government support fund shall receive a distribution from the Library and Local Government Support Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(F) For the 2003, 2004, and 2005 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of the Revised Code, but shall provide to each county auditor by the twentieth day of July 2003, July 2004, and July 2005 an estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. The Tax Commissioner may choose to report to each county auditor a revised estimate of the 2003, 2004, or 2005 distributions at any time during the period July 1, 2003, through July 31, 2005.

(G) During the period July 1, 2003, through July 31, 2005, the Director of Budget and Management shall issue those directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund.

SECTION 140. * CAPITAL APPROPRIATION TO SFC

All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 032), created under section 3318.25 of the Revised Code, derived from the proceeds of obligations heretofore and herein authorized to pay the cost of facilities for a system of common schools throughout the state for the period beginning July 1, 2002, and ending June 30, 2004. The appropriation shall be in addition to any other appropriation for this purpose.

			Appropriations
SFC SCHOOL FACILITIES COMMISSION			
CAP-770	School Building Program Assistance	\$	122,800,000
Total School Facilities Commission		\$	122,800,000
TOTAL School Building Program Assistance Fund		\$	122,800,000

* SCHOOL BUILDING PROGRAM ASSISTANCE

The foregoing appropriation item CAP-770, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the

Commission pursuant to Chapter 3318. of the Revised Code. Expenditures from appropriations contained in this section may be accounted for as though made for the fiscal year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. The School Facilities Commission shall not disburse any of the appropriations made in this section until after April 1, 2004.

*** BOND ISSUANCE AUTHORITY**

The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with the provisions of Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.03 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$123,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs to the state of previously authorized capital facilities and the capital facilities authorized in this section for the School Building Program Assistance Fund pursuant to Chapter 3318. of the Revised Code.

SECTION 141. (A) On the effective date of this section, the following programs administered by the Ohio School Facilities Commission are terminated:

(1) The Short-Term Loan Program established by Section 10.01 of Am. Sub. H.B. 282 of the 123rd General Assembly;

(2) The Emergency School Repair Program codified in section 3318.35 of the Revised Code.

No new school district shall be served under any of these programs. The Commission may continue serving school districts that were receiving assistance under any of these programs before the effective date of this section in accordance with terms and agreements in effect on that date.

(B) On March 31, 2004, the Disability Access Program established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd General Assembly, as subsequently amended, Section 10 of Am. Sub. H.B. 282 of the 123rd General Assembly, as subsequently amended, Section 102.01 of Am. Sub.

H.B. 94 of the 124th General Assembly, and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly is terminated.

No new school district shall be served under this program. The Commission may continue serving school districts that were receiving assistance under this program before the effective date of this section in

accordance with terms and agreements in effect on that date.

On April 1, 2004, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unencumbered and unallotted balance in appropriation item CAP-777, Disability Access Projects, to appropriation item CAP-662, Public School Buildings. The amount transferred from CAP-777, Disability Access Projects, shall be used to fund classroom facilities projects in accordance with Chapter 3318. of the Revised Code.

SECTION 142. (A) As used in this section, "pharmacy provider" has the same meaning as in rule 5101:3-9-01 of the Administrative Code.

(B) The Department of Job and Family Services shall establish the Medication Management Incentive Payment Program for state fiscal years 2004 and 2005 for pharmacy services provided Medicaid recipients other than those who reside in a nursing facility or an intermediate care facility for the mentally retarded. Any pharmacy provider that serves Medicaid recipients may elect to participate in the Program in one or both of the state fiscal years that it is in effect.

(C) The Department of Job and Family Services shall do the following:

(1) Determine the statewide monthly average cost of providing pharmacy services to Medicaid recipients other than those who reside in a nursing home or an intermediate care facility for the mentally retarded during the last quarter of the biennium ending June 30, 2003;

(2) Establish a reimbursement rate for pharmacy services provided under the Medication Management Incentive Payment Program for the first quarter of the biennium ending June 30, 2005.

(D) Under the Medication Management Incentive Payment Program:

(1) If a participating pharmacy provider's average monthly cost of providing pharmacy services to a number of Medicaid recipients specified by the Department of Job and Family Services in a quarter after the first quarter of the biennium ending June 30, 2005, is greater than or equal to the statewide monthly average cost of providing pharmacy services during the last quarter of the biennium ending June 30, 2003, the pharmacy provider shall be reimbursed at the rate established by the Department for the first quarter of the biennium ending June 30, 2005.

(2) If a participating pharmacy provider's average monthly cost of providing pharmacy services to the number of Medicaid recipients specified by the Department of Job and Family Services in a quarter after the first quarter of the biennium ending June 30, 2005, is less than the statewide monthly average cost of providing pharmacy services during the last quarter

of the biennium ending June 30, 2003, the pharmacy provider shall be reimbursed at an enhanced rate established by the Department.

(E) A pharmacy provider that elects to participate in the program may achieve a reduction in its average monthly cost for providing pharmacy services to Medicaid recipients by providing consulting services to the physicians who prescribe drugs to the recipient. These consulting services may include recommendations for eliminating unnecessary and duplicative drug therapies, modifying inefficient drug regimens, and implementing safe and cost-effective drug therapies.

(F) The Department of Job and Family Services shall adopt, in accordance with Chapter 119. of the Revised Code, any rule it considers necessary to develop and administer the Medication Management Incentive Payment Program. The rules may provide for compensation for physicians who consult with pharmacy providers that participate in the program.

SECTION 143. OFFICE OF QUALITY SERVICES FUND TRANSFERS

Notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer any remaining amounts of cash from the following specified obsolete fund to the General Revenue Fund within thirty days after the effective date of this section: Quality Services (General Services Fund 4C1). The amount of such transfer to the General Revenue Fund is hereby appropriated to General Revenue Fund appropriation item 042-409, Commission Closures.

SECTION 144. TRANSFER FROM BOARD OF TAX APPEALS

Notwithstanding any other provision of law to the contrary, on July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer any remaining amounts of cash from the following specified obsolete fund to the General Revenue Fund: Reproduction of Decisions (General Services Fund 439).

SECTION 145. FEDERAL JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

(A) The enhanced federal medical assistance percentage (FMAP) rate is authorized pursuant to the Federal Jobs and Growth Relief Reconciliation Act of 2003 for the third and fourth calendar quarters of federal fiscal year 2003 and the first, second, and third calendar quarters of federal fiscal year 2004. During this period, the reimbursement rate for all Medicaid service

expenditures paid by state or local entities shall be the non-enhanced rate.

(B) During the quarters that the enhanced FMAP rate is authorized pursuant to the Federal Jobs and Growth Relief Reconciliation Act of 2003, when drawing FMAP to the state treasury for Medicaid services paid by the Department of Job and Family Services or other state or local entities, the Department of Job and Family Services shall deposit the amount of federal revenue attributable to the enhanced FMAP that is being made available to the Federal Fiscal Relief Fund, which is hereby created in the state treasury. The disposition of cash from this fund shall occur as follows:

(1) On a schedule to be determined by the Office of Budget and Management, the Director of Budget and Management shall make cash transfers to the Medicaid Reserve Fund, which is hereby created in the state treasury. The total amount transferred shall be \$18,611,156 in state fiscal year 2004 and \$90,851,972 in state fiscal year 2005. The Director of Job and Family Services shall make requests to the Director of Budget and Management as necessary to increase the appropriation in appropriation item 600-525, Health Care/Medicaid. The Director of Budget and Management shall transfer the state share of such amounts from the Medicaid Reserve Fund to the General Revenue Fund. The transferred amount plus the federal share associated with this amount is hereby appropriated. The Department of Job and Family Services shall use this appropriation authority to pay claims for Medicaid services.

(2) After the amounts in division (B)(1) of this section have been transferred, the Director of Budget and Management shall transfer the remainder of cash in the Federal Fiscal Relief Fund to the General Revenue Fund on a schedule to be determined by the Office of Budget and Management.

SECTION 146. (A) In September of 2003, each school district that has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall administer a half-length practice version of each Ohio Graduation Test prescribed by division (B) of section 3301.0710 of the Revised Code to all ninth grade students enrolled in the district. Each district shall determine the dates, times, and method of administering the tests to students and shall score the tests.

(B) Each district declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall determine for each high school in the district whether the school shall be required to provide intervention services in accordance with this division to any students who

took the tests. In determining which high schools shall provide intervention services based upon available funding, the district shall consider each school's graduation rate and scores on the practice tests.

Each high school selected to provide intervention services under this division shall provide intervention services to students whose practice test results indicate that they are failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio Graduation Tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

SECTION 147. (A) As used in this section, "nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the Director of Health for purposes of the Medicaid Program and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a skilled nursing facility by the Director of Health for purposes of the Medicare Program.

(B) The Director of Health shall request from the Secretary of the United States Department of Health and Human Services approval to develop an alternative regulatory procedure for nursing facilities subject to federal regulation. If the Secretary gives approval, the Director shall convene the Nursing Facility Regulatory Reform Task Force.

(C) The Director of Health shall serve as chair of the Task Force. The Director of Aging, the Director of Job and Family Services, the State Long-Term Care Ombudsman, or persons they designate and a member of the Governor's staff designated by the Governor shall serve on the Task Force. The Director of Health shall appoint the following individuals to serve on the Task Force:

- (1) Two representatives of the Ohio Health Care Association;
- (2) Two representatives of the Association of Ohio Philanthropic Homes and Housing for the Aging;
- (3) Two representatives of the Ohio Academy of Nursing Homes;
- (4) Two representatives of the American Association of Retired Persons (AARP);
- (5) Two representatives of Families for Improved Care;
- (6) A representative from the Ohio Association of Regional Long-Term

Care Ombudsman Programs;

(7) A representative of the 1199 League of Registered Nurses;

(8) A representative of the American Federation of State, County, and Municipal Employees.

(D) Except to the extent that service on the task force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the State for expenses incurred in carrying out their duties on the Task Force. The Scripps Gerontology Center at Miami University shall provide technical and support services for the Task Force.

(E) The Task Force shall do all of the following:

(1) Review the effectiveness of current regulatory procedures for nursing facilities regarding the quality of care and quality of life of nursing facility residents;

(2) Develop recommendations for improved regulatory procedures for nursing facilities to improve the quality of care and quality of life of nursing facility residents;

(3) Evaluate potential effects on nursing facility residents of elimination of components of the Certificate of Need program pertaining to long-term care facilities;

(4) Develop possible demonstration projects to present the potential of proposed changes to the regulatory procedure to increase the quality of care and the quality of life of nursing facility residents.

(F) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives and to the President and Minority Leader of the Senate. The report shall explain any changes to the Revised Code required to implement the recommendations. On submission of the recommendations, the Task Force shall cease to exist.

(G) At the request of the General Assembly by adoption of a joint resolution, the Director of Health shall apply to the Secretary of the United States Department of Health and Human Services for a waiver to implement the recommendations of the Task Force.

SECTION 148. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that the provisions of this act are general laws created in the exercise of the state's police power, arising out of matters of statewide concern, and are designed for the health, safety, and welfare of contractors, their employees, and the

public.

SECTION 149. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, and other gaseous piping systems will continue to be inspected as part of the building permit process, enforcement of plumbing and mechanical building codes, and occupancy certification. The purpose of this legislative action is solely to eliminate duplicative inspection personnel and fees.

SECTION 150. * The Hemophilia Advisory Council established under section 3701.145 of the Revised Code, renumbered as section 3701.0210 of the Revised Code by this act, is hereby abolished.

SECTION 151. * Upon the taking effect of this section, the Hazardous Waste Facility Board is abolished.

All of the rules adopted by the Hazardous Waste Facility Board are abolished on that date. The Director of the Legislative Service Commission shall remove the rules from the Administrative Code as if they had been rescinded.

On and after the effective date of this section and until the Director of Environmental Protection adopts rules that eliminate references to the Hazardous Waste Facility Board, whenever the Hazardous Waste Facility Board or Board, when "Board" refers to the Hazardous Waste Facility Board, is referred to in a rule, the reference shall be deemed to refer to the Environmental Protection Agency or the Director of Environmental Protection, whichever is appropriate. As expeditiously as possible after the effective date of this section, the Director of Environmental Protection shall adopt rules eliminating references to the Hazardous Waste Facility Board.

Permits or modifications issued by the Hazardous Waste Facility Board under section 3734.05 of the Revised Code as that section existed prior to its amendment by this act shall continue in effect as if the Director had issued the permits or modifications under section 3734.05 of the Revised Code after the effective date of its amendment by this act. Any application pending before the Hazardous Waste Facility Board on the effective date of this section shall be transferred to the Environmental Protection Agency for

approval or disapproval by the Director. All records, files, and other documents of the Hazardous Waste Facility Board shall be transferred to the Environmental Protection Agency.

SECTION 152. (A) There is hereby created the Ohio Autism Task Force consisting of the following members:

(1) All of the following persons to be appointed by the Governor:

(a) A person diagnosed with autism;

(b) Four persons who are parents of children diagnosed with autism;

(c) A special education administrator of an Ohio school district;

(d) A representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities;

(e) A representative of the Ohio Developmental Disabilities Council;

(f) A representative of the Autism Society of Ohio;

(g) A developmental pediatrician who is a member of the Ohio Association of Pediatricians;

(h) Two representatives from private schools in Ohio that provide special education services to children diagnosed with autism;

(i) Two representatives from Ohio hospitals that provide services to children diagnosed with autism.

(2) Two members of the House of Representatives, one from the majority party and one from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President of the Senate;

(4) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;

(5) The Director of Job and Family Services or the Director's designee;

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

(7) The Director of Health or the Director's designee.

(B) All appointments and designations to the Task Force shall be made not later than thirty days after the effective date of this section. Any vacancy that occurs on the Task Force shall be filled in the same manner as the original appointment. The members of the Task Force shall serve without compensation.

(C) The initial meeting of the Task Force shall be held not later than sixty days after the effective date of this section. At its initial meeting, the Task Force shall elect from its membership a chairperson and other officers it considers necessary. Thereafter, the Task Force shall meet on the call of

the chairperson.

(D) The Department of Mental Retardation and Developmental Disabilities shall provide meeting facilities and other support as necessary for the Task Force.

(E) The Task Force shall study and make recommendations regarding both of the following:

(1) The growing incidence of autism in Ohio;

(2) Ways to improve the delivery in this state of autism services.

(F) Not later than one year after the effective date of this section, the Task Force shall submit a written report of its recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(G) On submission of its report, the Task Force shall cease to exist.

SECTION 153. (A) There is hereby created the Task Force to Eliminate Health Services Duplication. The Director of Administrative Services shall serve as chairperson. The Directors of Aging, Alcohol and Drug Addiction Services, Health, Mental Health, Mental Retardation and Developmental Disabilities, and Budget and Management, and the Executive Director of the Commission on Minority Health, or persons they designate, shall serve on the Task Force. The Commission on Dispute Resolution and Conflict Management shall provide technical and support services for the Task Force.

(B) Except to the extent that service on the Task Force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the state for expenses incurred in carrying out their duties on the Task Force.

(C) The Task Force shall do all of the following:

(1) Evaluate the feasibility of combining all or parts of the Department of Aging, the Department of Alcohol and Drug Addiction Services, the Commission on Minority Health, the Department of Health, the Department of Mental Health, and the Department of Mental Retardation and Developmental Disabilities to eliminate duplication of services;

(2) Evaluate the feasibility of establishing a central procurement point for basic operational services associated with each department, including human resources, training, research, legislative information, fiscal management, and public information.

(D) Not later than March 31, 2004, the Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leaders of the House of Representatives and to the President and Minority Leader of

the Senate. On submission of its report, the Task Force shall cease to exist.

SECTION 154. The Parole Board shall review the sentences of prisoners who are confined in state correctional institutions and who were sentenced under the Felony Sentencing Law that was in effect prior to July 1, 1996, to determine the appropriateness of those sentences and to determine whether the length of any of those sentences should be adjusted. The Parole Board shall conduct this review in cooperation with the Department of Rehabilitation and Correction. The Parole Board shall prepare a report that contains its findings and makes recommendations regarding further action. Not later than one year after the effective date of this section, the Parole Board shall submit the report to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the chair of the House Criminal Justice Committee, and the chair of the Senate Judiciary Committee on Criminal Justice.

As used in this section, "state correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

SECTION 155. As used in this section, "qualified property" means real and tangible personal property that satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code.

Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property, at any time on or before twelve months after the effective date of this section, may file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest on the property be abated.

The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and shall list the name of the county in which the property is located; the property's legal description; its taxable value; the amount in dollars of the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during any time that the unpaid taxes accrued; and any other information required by the Tax Commissioner. The county auditor shall supply the required information upon request of the applicant.

Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the qualified property

before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The Tax Commissioner shall not consider an application filed under this section unless such a certificate is attached to it.

Upon receipt of the application and after consideration of it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax exempt list of the county and that all unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be abated. If the Tax Commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the Tax Commissioner shall issue an order denying the application.

If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the Tax Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law.

The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the Tax Commissioner on the effective date of this section, without requiring the property owner to file an additional application. The Tax Commissioner also may apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this section and on or before twelve months after that effective date, even though the application does not expressly request abatement of unpaid taxes.

SECTION 156. (A) The amendment, repeal and reenactment, or enactment by this act of sections 718.01, 718.02, 718.03, 718.05, 718.051, and 718.121 of the Revised Code apply to taxable years beginning on or after January 1, 2004.

(B) The amendment by this act of sections 718.11, 5717.011, and 5717.03 of the Revised Code apply to matters relating to taxable years beginning on or after January 1, 2004.

(C) The credit allowed by section 718.021 of the Revised Code applies

to qualifying losses sustained in taxable years beginning on or after January 1, 2004.

SECTION 157. Not later than thirty days after the effective date of this section, the Governor, with the advice and consent of the Senate, shall make initial appointments to the Ohio Business Gateway Steering Committee created in section 5703.56 of the Revised Code. Terms of office shall be as prescribed in section 5703.56 of the Revised Code.

SECTION 158. (A) The amendment by this act of sections 165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5741.01, 5741.02, and 5741.121 of the Revised Code apply on and after July 1, 2003.

(B) The amendment by this act of sections 5739.021, 5739.022, 5739.023, and 5739.026 of the Revised Code apply on and after January 1, 2004.

(C) The amendment by this act of sections 5741.021, 5741.022, and 5741.023 of the Revised Code apply on and after January 1, 2006.

(D) The amendment by this act of section 5739.10 of the Revised Code pertaining to the temporary 6% excise tax levied upon the privilege of engaging in the business of making retail sales applies on and after July 1, 2003. The amendment by this act of that section pertaining to the elimination of the exemption for retail sales under 16¢ applies on and after January 1, 2006.

(E) The repeal and re-enactment by this act of section 5739.034 of the Revised Code applies on and after July 1, 2003.

SECTION 159. Sections 107.32 and 107.33 of the Revised Code shall apply to all state institutional facilities, as defined in section 107.32 of the Revised Code, that were in operation on or after January 1, 2003.

SECTION 160. The Legislative Office of Education Oversight shall conduct a review of partnership agreements between a Head Start provider and a provider of child care or day care services. In conducting this review, the Office shall analyze the following:

(A) The impact on literacy-readiness for children receiving services as a result of such agreements;

(B) The costs and benefits of such agreements to both participant children and the providers who are parties to the agreements. In analyzing the costs and benefits of such agreements, the Office shall examine the financial costs and benefits to providers who are parties to the agreements and to families of participant children. Additionally, the Office shall examine intangible costs and benefits to participant children, such as intellectual, emotional, and physical benefits or detriments caused by service under such agreements.

(C) The operation of the agreements. In analyzing the operation of the agreements, the Office shall review how the agreements work, how well the agreements work, what components are included in the agreements, and whether the agreements are unique to the providers who are parties to the agreements or standardized across the state or within a local region.

(D) Whether there is an administrative entity, such as a county department of job and family services, that oversees the implementation of a particular agreement. If there is such an entity that oversees an agreement, the Office shall examine the degree to which oversight is performed and what overhead costs the administrative entity incurs in overseeing such agreements.

The Office shall submit the final results of this study to the General Assembly not later than December 31, 2004.

SECTION 161. (A) Within one hundred twenty days after the effective date of this section, the Director of Agriculture, the Director of Rehabilitation and Correction, and the Director of Youth Services shall develop a plan to optimize the quantity and use of food grown and harvested in state correctional institutions or secure facilities operated by the Department of Youth Services in the most cost-effective manner. The plan shall include methods to increase production at farms operated by either department and shall include methods to ensure that the highest possible percentage of food consumed at state correctional institutions and secure facilities operated by the Department of Youth Services is food grown and harvested at a state correctional institution or secure facility operated by the Department of Youth Services.

(B) The plan shall consider possible amendments to the Revised Code, amendments to the Administrative Code, administrative changes, financial strategies, strategies to obtain a reliable workforce, and any other means to optimize the quantity and use of food of that nature in state correctional institutions and secure facilities operated by the Department of Youth Services.

The plan and its findings, conclusions, and any recommendations and proposed legislation shall be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, the Director of Rehabilitation and Correction, and the Director of Youth Services.

(C) As used in this section, "state correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

SECTION 162. The State Racing Commission shall conduct a performance study of the Commission based upon its current level of full-time employees. The Commission, not later than January 1, 2004, shall make recommendations to the Governor and the General Assembly regarding possible staff reductions and ways to improve the efficiency of the Commission's operations.

SECTION 163. For any metropolitan housing authority that is in existence when division (D) of section 3735.27 of the Revised Code, as amended by this act, takes effect, and to which that division applies, the board of county commissioners shall appoint a member to fill the next vacancy that occurs due to the expiration of the term of a member appointed by the chief executive officer of the most populous city in the metropolitan housing authority district. Thereafter, any vacancy in that position shall be filled by an appointee of the board of county commissioners and all other vacancies shall be filled in the manner provided for the original appointments.

SECTION 164. The amendment by this act of section 5747.02 of the Revised Code applies to taxable years ending on or after the effective date of this section.

SECTION 165. (A) If a court finds that any provisions within sections 1346.04 to 1346.10 of the Revised Code conflict and cannot be harmonized with those within sections 1346.01 to 1346.03 of the Revised Code, provisions of sections 1346.01 to 1346.03 of the Revised Code shall control.

(B) If any provision within sections 1346.04 to 1346.10 of the Revised Code causes sections 1346.01 to 1346.03 of the Revised Code to no longer constitute a qualifying or model statute, as those terms are defined in the Master Settlement Agreement entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers, the provision in question shall be invalid. If any part of sections 1346.04 to 1346.10 of the

Revised Code is for any reason held to be invalid, unlawful, or unconstitutional, the remaining portions of those sections shall remain valid.

SECTION 166. The first report of stamping agents required by division (A) of section 1346.07 of the Revised Code shall be due on the last day of the month following the month in which this act becomes effective. The first certifications of a tobacco product manufacturer under division (A) of section 1346.05 of the Revised Code shall be due forty-five days after the effective date of this act. The directory established in division (B) of section 1346.05 of the Revised Code shall be published within ninety days after the effective date of this act.

SECTION 167. (A) For the purposes of section 321.24, as amended by this act, and of section 5703.80 of the Revised Code, as enacted by this act, the Tax Commissioner may determine the property tax administrative fee for fiscal year 2004 at any time after the day this act becomes law. One-half of the amount of the fee for that year may be deducted from each of the payments made in the fiscal year under division (F) of section 321.24 of the Revised Code, or the full amount of the fee for the year may be deducted from the second of those payments made in the fiscal year. The Director of Budget and Management may transfer the fee from the General Revenue Fund to the Property Tax Administration Fund created under section 5703.80 of the Revised Code, as enacted by this act, for fiscal year 2004 in three equal payments on November 1, 2003, February 1, 2004, and May 1, 2004.

(B) Within thirty days after the Tax Commissioner determines the property tax administrative fee for fiscal year 2004 under division (A) of this section, the Tax Commissioner shall notify the Department of Education of the amount by which each school district's reimbursement made under division (F) of section 321.24 of the Revised Code, as amended by this act, is to be reduced for the Property Tax Administration Fund.

SECTION 168. (A) As used in this section, "housing officer" has the same meaning as in section 3735.65 of the Revised Code.

(B) Any complaint filed with the tax commissioner on or after the effective date of this section challenging the continued exemption of property granted an exemption by a housing officer under section 3735.67 of the Revised Code shall be certified by the tax commissioner to the

housing officer. The housing officer shall proceed to hear and determine such complaint in accordance with division (E) of section 3735.67 of the Revised Code. The commissioner may hear and determine any such complaint filed with the commissioner before the effective date of this section or may certify such complaint to the housing officer for hearing and determination.

(C) The filing date of any complaint certified to a housing officer under this section shall be considered to be the date on which the complaint was filed with the tax commissioner.

SECTION 169. Notwithstanding the date by which determinations must be made under divisions (D), (G), and (H) of section 5727.84 of the Revised Code, the Tax Commissioner, as soon as is practicable after the effective date of that section as amended by this act, shall redetermine electric company tax value loss, fixed-rate levy loss, and fixed-sum levy loss for taxing districts described in division (D)(3) of that section on the basis of such amendments, and make the certification required by divisions (J) and (K) of that section. On or before July 31, 2003, or as soon as is practicable after the effective date of section 5727.84 of the Revised Code as amended by this act, the Department of Education shall make the computations required under section 5727.85 of the Revised Code on the basis of such redeterminations. Such redeterminations and computations apply for the purpose of computing payments made to taxing districts under sections 5727.85 and 5727.86 of the Revised Code during state fiscal year 2004 and subsequent fiscal years, as otherwise provided in those sections.

SECTION 170. The amendment by this act of sections 5733.051, 5733.057, and 5733.06 of the Revised Code applies to tax year 2004 and to each tax year thereafter.

SECTION 171. (A)(1) There is hereby created the Legislative Audit Commission Study Committee, to be composed of four members. The committee shall study how other states provide for a legislative auditing function within their respective legislative branches of government and shall make recommendations on how Ohio should address the legislative auditing function and on the funding levels necessary to accomplish the objectives recommended. The President of the Senate shall appoint to the committee two members of the Senate, each of whom shall be a member of a different

political party. The Speaker of the House of Representatives shall appoint to the committee two members of the House of Representatives, each of whom shall be a member of a different political party.

(2) All vacancies in the membership of the committee shall be filled in the same manner prescribed for original appointments to the committee.

(3) The members of the committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(B) The members of the Legislative Audit Commission Study Committee shall select a chairperson from among the appointed members.

(C) The Legislative Service Commission shall provide necessary support to the Legislative Audit Commission Study Committee.

(D) The Legislative Audit Commission Study Committee shall publish its findings and recommendations in a report to the Governor, the Speaker and the Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate not later than December 31, 2003. Upon submission of the report, the committee shall cease to exist.

SECTION 172. If the amendments made by this act to division (B)(2)(b) of section 1346.02 of the Revised Code are found unconstitutional or otherwise held invalid by a court of competent jurisdiction, then to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer.

The consequent of the preceding paragraph effectively reinstates division (B)(2)(b) of section 1346.02 of the Revised Code as it existed prior to its amendment by this act.

SECTION 173. The amendment by this act to division (H) of section 718.01 and to section 718.14 of the Revised Code apply to taxable years beginning on or after January 1, 2003.

SECTION 174. (A) Any person required to make accelerated tax payments under section 5739.032, 5739.122, or 5741.121 of the Revised Code that makes full payment of the taxes for the April 2003 reporting period on or before May 23, 2003; makes full payment of the taxes for the May 2003 reporting period on or before June 23, 2003; and makes all three of the required accelerated tax payments for the June 2003 reporting period on or before June 25, 2003, shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for the reporting periods of April 2003 and May 2003.

(B) Notwithstanding division (A) of this section, a person required to make accelerated tax payments under section 5739.032, 5739.122, or 5741.121 of the Revised Code that has not been notified by the Department of Taxation of the requirement to make accelerated payments under one of those sections shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for any reporting period prior to the receipt of the notice, or until the reporting period of September 2003, whichever is earlier.

SECTION 175. The Director of Administrative Services shall inquire into entering into multistate purchasing contracts in carrying out the Department's duties under Chapter 125. of the Revised Code. Not later than December 31, 2003, the Director shall file a report with the General Assembly detailing the Director's findings. The report shall include recommendations on any legislation necessary to authorize multistate purchasing contracts.

SECTION 176. On July 1, 2003, the Ohio Coal Development Office of the Department of Development is abolished and all of its functions, and assets and liabilities, are transferred to the Ohio Coal Development Office of the Ohio Air Quality Development Authority. The Ohio Coal Development Office of the Ohio Air Quality Development Authority is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio Coal Development Office of the Department of Development.

Any business commenced but not completed by the Ohio Coal

Development Office of the Department of Development or the Director of that office on the effective date of this section shall be completed by the Ohio Coal Development Office of the Ohio Air Quality Development Authority or the Director of that office in the same manner, and with the same effect, as if completed by the Ohio Coal Development Office of the Department of Development or the Director of that office. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired by reason of the transfer required by this section and shall be administered by the Ohio Coal Development Office of the Ohio Air Quality Development Authority. All of the rules, orders, and determinations of the Ohio Coal Development Office of the Department of Development or of the Director of Development in relation to that office continue in effect as rules, orders, and determinations of the Ohio Coal Development Office of the Ohio Air Quality Development Authority, until modified or rescinded by that office or by the Ohio Air Quality Development Authority in relation to that office. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Director of Development in relation to the Ohio Coal Development Office of the Department of Development to reflect their transfer to the Ohio Air Quality Development Authority.

Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all of the employees of the Ohio Coal Development Office of the Department of Development are transferred to the Ohio Coal Development Office of the Ohio Air Quality Development Authority and retain their positions and all the benefits accruing thereto, except that they shall be in the unclassified service and shall serve at the pleasure of the Authority.

Whenever the Ohio Coal Development Office in the Department of Development or the Director of Development in relation to that office is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Ohio Coal Development Office of the Ohio Air Quality Development Authority or the Authority in relation to that office, whichever is appropriate.

Any action or proceeding pending on the effective date of this section is not affected by the transfer and shall be prosecuted or defended in the name of the Ohio Air Quality Development Authority or its Ohio Coal Development Office. In all such actions and proceedings, the Ohio Air Quality Development Authority or its Ohio Coal Development Office upon application to the court shall be substituted as a party.

SECTION 177. Sections 2743.51, 2743.60, 2743.65, and 3701.741 of the Revised Code, as amended by Section 1 of this act, apply to claims filed under section 2743.56 of the Revised Code that are based on criminally injurious conduct occurring on and after July 1, 2003.

SECTION 178. The amendment by this act of section 5747.01 of the Revised Code, by the addition of divisions (A)(20)(d) and (A)(21)(c) to that section, is intended as a clarification of the law as it exists before the effective date of that amendment.

SECTION 179. Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by this act is composed, the codified section of law as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 180. Except as otherwise specifically provided in this act, the repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal by this act of a codified section of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 181. The repeal by this act of sections 122.12, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 173.54, 173.55,

173.56, 173.57, 173.58, 173.59, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 3318.35, 3701.142, 3701.144, 4141.044, 5115.011, 5115.012, 5115.06, and 5115.061 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeals go into immediate effect when this act becomes law.

SECTION 182. (A) Sections 117.45, 121.04, 122.658, 124.03, 124.15, 124.152, 124.181, 124.183, 127.16, 131.23, 173.08, 323.01, 329.03, 329.04, 329.051, 340.021, 340.03, 901.21, 901.63, 901.85, 1501.04, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 2101.16, 2151.3529, 2151.3530, 2305.234 (in Section 1), 2329.66, 2715.041, 2715.045, 2716.13, 2743.191, 2743.51, 2743.60, 2743.65, 2921.13, 3111.04, 3119.01, 3123.952, 3311.05, 3311.059, 3313.975, 3313.976, 3313.977, 3313.978, 3313.979, 3313.981, 3314.08, 3314.083, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.10, 3317.16, 3318.37, 3323.16, 3332.04 (in Section 1), 3333.121, 3517.092, 3701.021, 3701.022, 3701.029, 3701.141, 3701.145 (3701.0210), 3701.741, 3702.31, 3702.63, 3702.68, 3702.74, 3705.24, 3709.09, 3711.021, 3721.02, 3733.43, 3733.45, 3734.28, 3734.57, 3745.40, 3748.07, 3748.13, 3769.087, 3773.43, 3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4105.17, 4112.15, 4117.14, 4123.27, 4141.09, 4301.43, 4501.06, 4505.06, 4519.55, 4723.06, 4723.08, 4723.082, 4723.17, 4729.01, 4729.41, 4731.65, 4731.71, 4736.12, 4747.05, 4747.06, 4747.07, 4747.10, 4771.22, 4903.24, 4905.91, 4919.79, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 5101.181, 5101.20, 5101.21, 5101.211, 5101.212, 5101.23, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5103.155, 5104.04, 5104.30, 5107.02, 5107.30, 5107.40, 5107.60, 5111.0113, 5111.02, 5111.025, 5111.03, 5111.06, 5111.08 (5111.071), new 5111.16, 5111.16 (5111.08), 5111.161, 5111.17, 5111.171, 5111.172, 5111.174, 5111.175, 5111.20, 5111.21, 5111.211, 5111.22, 5111.251, 5111.252 (5123.199), 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.88, 5111.911, 5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 (5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 5123.19, 5123.196, 5123.198, 5123.1910, 5123.38, 5126.01, 5126.042, 5126.12, 5153.78, 5502.13, 5709.61, 5709.62, 5709.632, 5709.64,

5735.05, 5735.053, 5735.23, 5735.26, 5735.291, 5735.30, and 6109.21 of the Revised Code as amended, enacted, or renumbered by this act, and the items of law of which such sections as amended or enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as amended, enacted, or renumbered by this act, and the items of law of which such sections as amended or enacted by this act are composed, go into immediate effect when this act becomes law.

(B) Sections 3317.11 and 5111.173 of the Revised Code as repealed and reenacted by this act, and the items of law of which it is composed, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as repealed and reenacted by this act goes into immediate effect when this act becomes law.

(C) The amendment of sections 109.32, 2915.01, 2915.02, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.093, 2915.095, 2915.10, 2915.101, and 2915.13 of the Revised Code is not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and goes into effect on July 1, 2003.

(D) The amendments of sections 4503.101 and 4503.103 of the Revised Code are not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on June 30, 2003.

SECTION 183. (A) The amendment, enactment, or repeal and reenactment by this act of sections 122.17, 122.171, 307.676, 321.24, 323.13, 715.013, 718.01, 718.02, 718.021, 718.03, 718.05, 718.051, 718.11, 718.121, 718.14, 718.15, 718.151, 2923.35, 2925.44, 2933.43, 3735.66, 3735.67, 3735.671, 4503.06, 5703.56, 5703.57, 5703.80, 5709.20, 5709.201, 5709.21, 5709.211, 5709.212, 5709.22, 5709.23, 5709.24, 5709.25, 5709.26, 5709.27, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5715.27, 5715.39, 5717.011, 5717.03, 5725.19, 5727.111, 5727.30, 5727.84, 5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08, 5733.04, 5733.05, 5733.051, 5733.056, 5733.057, 5733.0511, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.45, 5733.49, 5733.55, 5733.56, 5733.57, 5733.98, 5735.14, 5735.15, 5735.19, 5735.99, 5739.09, 5743.45 (in Section 1 of this act), 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.026, 5747.31, 5747.80, and 6111.06 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, enactments, or

repeals and reenactments and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment or enactment by this act of sections 165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 5739.09, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.121, and 5741.25 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(C) The amendment by this act of sections 5739.021, 5739.022, 5739.023, and 5739.026 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into effect January 1, 2004.

(D) The amendment by this act of sections 5741.021, 5741.022, and 5741.023 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and, except as provided in this section, go into effect January 1, 2006.

(E) The amendment by this act of section 5739.10 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment, and the items of which it is composed, are not subject to the referendum and, as they pertain to the temporary 6% excise tax levied upon the privilege of engaging in the business of making retail sales, go into effect July 1, 2003, and, as they pertain to the elimination of the exemption for retail sales under 16¢, go into effect January 1, 2006.

(F) The repeal and re-enactment by this act of section 5739.034 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeal and re-enactment, and the items of which they are composed, are not subject to the referendum and go into effect July 1, 2003.

(G) The amendment by this act of section 5735.142 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d the amendment is not subject to the referendum and goes into effect on June 30, 2003.

SECTION 184. The repeal by this act of sections 319.311, 5733.111, 5739.012, 5741.011, and 5747.131 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 185. The repeal by this act of sections 5709.231, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 186. (A) The amendment by this act of sections 4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into effect December 31, 2004.

(B) The repeal by this act of sections 5727.39 and 5727.44 of the Revised Code provide for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into effect December 31, 2004.

SECTION 187. Section 3301.31 of the Revised Code, as repealed and reenacted by this act, and the items of law of which the section as repealed and reenacted by this act is composed, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as repealed and reenacted is entitled to go into immediate effect when this act becomes law. However, that section as repealed and reenacted by this act, and the items of law of which that section as repealed and reenacted by this act are composed, takes effect July 1, 2004, or the day this act becomes law, whichever is later.

SECTION 188. New section 3301.33 and sections 3301.34, 3301.35, 3301.36, and 3301.38, as enacted by this act, and section 3301.33 (3301.40) of the Revised Code as renumbered by this act, and the items of law of which those sections as enacted or renumbered by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections as enacted or renumbered are entitled to go into immediate effect when this act becomes law. However, those sections as enacted or renumbered by this act, and the items of law of which those sections as enacted or renumbered by this act are composed, take effect July 1, 2004, or the day this act becomes law, whichever is later.

SECTION 189. Sections 3301.37, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, and 3301.58 of the Revised Code, as amended or enacted by this act, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code the sections as amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, are entitled to go into immediate effect when this act becomes law. However, the sections as amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, take effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 190. The repeal by this act of section 3301.581 of the Revised Code is not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and goes into effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 191. The version of section 3332.04 of the Revised Code that is scheduled to take effect July 1, 2003, as amended by this act, and the items of law of which that section as amended is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as amended by this act, and the items of law of which that section as amended is composed, go into immediate effect on July 1, 2003.

SECTION 192. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3745.11 of the Revised Code

are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law.

(B)(1) The amendments by this act of division (P) of section 3745.11 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(2) The seventh and last paragraph added to division (S)(1) of section 3745.11 of the Revised Code by this act is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the paragraph takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the paragraph, or against any item of law it contains, the paragraph or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 193. The amendment by this act of the version of section 4511.75 of the Revised Code that is scheduled to take effect January 1, 2004, and the items of law of which that amendment is composed, are not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on July 1, 2004.

SECTION 194. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 4743.05 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

(B) The amendment by this act adding a reference to "4771." to section 4743.05 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

SECTION 195. (A) The amendments by this act to section 5104.01 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law, except as provided in division (B) of this section.

(B) The amendments by this act to division (T) of section 5104.01 of the Revised Code shall take effect on July 1, 2004.

SECTION 196. Section 5104.02 of the Revised Code, as amended by this act, and the items of law of which the section as amended by this act is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code the section as amended by this act, and the items of law of which the section as amended by this act is composed, are entitled to go into immediate effect when this act becomes law. However, the section as amended by this act, and the items of law of which the section as amended by this act are composed, take effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 197. (A) The amendments by this act to section 5104.32 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law, except as provided in division (B) of this section.

(B) The amendments by this act to division (B)(4) of section 5104.32 of the Revised Code shall take effect on September 1, 2003.

SECTION 198. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5111.022 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law.

(B) The amendments by this act adding divisions (B)(4), (E), and (F) to section 5111.022 of the Revised Code are subject to the referendum.

Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 199. Section 5112.31 of the Revised Code, as amended by this act, and the items of law of which that section as amended is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, that section as amended by this act, and the items of law of which that section as amended is composed, are entitled to go into immediate effect when this act becomes law. However, that section as amended by this act, and the items of law which that section as amended by this act are composed, take effect on July 1, 2003, or the day this act becomes law, whichever is later.

SECTION 200. Sections 175.21, 175.22, 317.32, 317.36, 319.63, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code, as amended and enacted by this act, and the items of law which those sections as amended and enacted are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code, those sections as amended and enacted by this act, and the items of law of which those sections as amended and enacted are composed, are entitled to go into immediate effect when this act becomes law. However, those sections as amended and enacted by this act, and the items of law of which those sections as amended and enacted by this act are composed, take effect on August 1, 2003, or the day this act becomes law, whichever is later.

SECTION 201. * Divisions (A) and (E) of section 9.24 of the Revised Code, as enacted by this act, shall take effect January 1, 2004.

SECTION 202. * Section 102.02 of the Revised Code, as amended by this act, shall take effect January 1, 2004.

SECTION 203. * Section 4759.08 of the Revised Code, as amended by this act, shall take effect July 1, 2004.

SECTION 204. * Sections 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised Code, as amended by this act, shall take effect on January 1, 2004.

SECTION 205. * Sections 5103.154 and 5153.163 of the Revised Code as amended by this act take effect July 1, 2004.

SECTION 206. Except as otherwise specifically provided in this act, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, go into immediate effect when this act becomes law.

SECTION 207. Uncodified sections of law amended or enacted in this act, and items of law contained within the uncodified sections of law amended or enacted in this act, that are marked with an asterisk are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the uncodified sections and items of law marked with an asterisk take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

If the amending and existing repeal clauses commanding the amendment of an uncodified section of law are both marked with asterisks, the uncodified section as amended is deemed also to have been marked with an asterisk.

An asterisk marking an uncodified section or item of law has the form *.
This section defines the meaning and form of, but is not itself to be

considered marked with, an asterisk.

SECTION 208. The repeal by this act of the following uncodified sections of law is not subject to the referendum and therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, goes into immediate effect when this act becomes law:

- (A) Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly;
- (B) Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly;
- (C) Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly;
- (D) Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly;
- (E) Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly;
- (F) Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly.

SECTION 209. If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment.

SECTION 210. * The amendment of section 122.25 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section.

SECTION 211. * Section 921.151 was amended and renumbered as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 124th General Assembly, passed November 21, 2002, and effective July 1, 2004. The amendment of section 921.151 of the Revised Code in Section 1 of this act does not supersede that earlier amendment and renumbering. This act therefore amends both sections to ensure that its amendments continue on and after July 1, 2004.

SECTION 212. The amendment by this act of sections 5112.03 and

5112.08 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

SECTION 213. The amendment by this act of section 5112.99 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of that section.

SECTION 214. * Section 109.572 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 215. Section 121.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 216. Section 122.171 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 675 and Am. Sub. S.B. 180 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 217. Section 124.15 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 640 and Sub. S.B. 245 of the 123rd General Assembly. The General Assembly,

applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 218. The version of section 2152.19 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 400 and Am. Sub. H.B. 490 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 219. The version of section 2301.03 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Am. Sub. H.B. 530 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 220. * The version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 221. Section 2743.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 115 and

Am. Sub. S.B. 281 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 222. The version of section 2743.191 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Sub. H.B. 427 and Am. Sub. S.B. 123 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 223. Section 2917.41 of the Revised Code is presented in this act as a composite of the section as amended by both Am. H.B. 61 and Am. Sub. S.B. 2 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 224. Section 3309.341 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 535 and Sub. S.B. 270 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 225. Section 3314.03 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 248 and Sub. H.B. 364 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised

Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 226. Section 3317.012 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 227. Section 3319.07 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 228. Section 3319.36 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 229. Section 4303.181 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of

the section in effect prior to the effective date of the section as presented in this act.

SECTION 230. Section 4723.07 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 231. * Section 4973.17 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 232. Section 5111.20 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 233. Section 5115.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 234. * Section 5709.62 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 235. * Section 5709.63 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 236. Section 5733.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 237. Section 5735.05 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 238. Section 5739.01 of the Revised Code was amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that while certain of the amendments of these acts are reconcilable, certain other of the amendments are substantively irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 was passed on March 13, 2002. Section 5739.01 of the Revised Code is therefore presented in this act as it results from Am. Sub. H.B. 524 and Sub.

S.B. 200 and such of the amendments of Am. Sub. S.B. 143 as are not in conflict with the amendments of Sub. S.B. 200. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 239. Section 5741.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 240. Section 5743.45 of the Revised Code is presented Section 1 of in this act as a composite of the section as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 241. Section 5747.01 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 675 and Am.

Sub. S.B. 266 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 242. If any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncoded sections contained in this act are composed, and their applications, are independent and severable.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 95

2174

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the _____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____

Part II
Part II of this act continues Part I.

Sec. 5101.83. (A) As used in this section:

(1) "Assistance group" has the same meaning as in ~~sections~~ section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it also means a group provided benefits and services under the prevention, retention, and contingency program ~~because the members of the group share a common need for benefits and services.~~

(2) "Fraudulent assistance" means assistance and service, including cash assistance, provided under the Ohio works first program established under Chapter 5107., or benefits and services provided under the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code, to or on behalf of an assistance group that is provided as a result of fraud by a member of the assistance group, including an intentional violation of the program's requirements. "Fraudulent assistance" does not include assistance or services to or on behalf of an assistance group that is provided as a result of an error that is the fault of a county department of job and family services or the state department of job and family services.

(B) If a county director of job and family services determines that an assistance group has received fraudulent assistance, the assistance group is ineligible to participate in the Ohio works first program or the prevention, retention, and contingency program until a member of the assistance group repays the cost of the fraudulent assistance. If a member repays the cost of the fraudulent assistance and the assistance group otherwise meets the eligibility requirements for the Ohio works first program or the prevention, retention, and contingency program, the assistance group shall not be denied the opportunity to participate in the program.

This section does not limit the ability of a county department of job and family services to recover erroneous payments under section 5107.76 of the Revised Code.

The state department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5101.97. (A)(1) Not later than the ~~first~~ last day of each July and January, the department of job and family services shall complete a report on the characteristics of the individuals who participate in or receive services through the programs operated by the department and the outcomes of the individuals' participation in or receipt of services through the

programs. ~~The report~~ reports shall be for the six-month periods ending on the last days of June and December and shall include information on the following:

(a) Work activities, developmental activities, and alternative work activities established under sections 5107.40 to 5107.69 of the Revised Code;

(b) Programs of publicly funded child day-care, as defined in section 5104.01 of the Revised Code;

(c) Child support enforcement programs;

(d) Births to recipients of the medical assistance program established under Chapter 5111. of the Revised Code.

(2) ~~Not later than the first day of each July, the department shall complete~~ a progress report on the partnership agreements between the director of job and family services and boards of county commissioners under section 5101.21 of the Revised Code. The report shall include a review of whether the county family services agencies and workforce development agencies satisfied performance standards included in the agreements and whether the department provided assistance, services, and technical support specified in the agreements to aid the agencies in meeting ~~the performance standards.~~

(3) The department shall submit the reports required under ~~divisions~~ division (A)(1) ~~and (2)~~ of this section to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the legislative budget officer, the director of budget and management, and each board of county commissioners. The department shall provide copies of ~~each report~~ the reports to any person or government entity on request.

In designing the format for ~~each report~~ the reports, the department shall consult with individuals, organizations, and government entities interested in the programs operated by the department, so that the reports are designed to enable the general assembly and the public to evaluate the effectiveness of the programs and identify any needs that the programs are not meeting.

(B) Whenever the federal government requires that the department submit a report on a program that is operated by the department or is otherwise under the department's jurisdiction, the department shall prepare and submit the report in accordance with the federal requirements applicable to that report. To the extent possible, the department may coordinate the preparation and submission of a particular report with any other report, plan, or other document required to be submitted to the federal government, as well as with any report required to be submitted to the general assembly. The reports required by the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996 (P.L. 104-193) may be submitted as an annual summary.

Sec. 5103.031. (A) Except as provided in section 5103.033 of the Revised Code, the department of job and family services may not issue a certificate under section 5103.03 of the Revised Code to a foster home unless the foster caregiver successfully completes the following amount of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code:

- (1) If the foster home is a family foster home, at least twelve hours;
- (2) If the foster home is a specialized foster home, at least thirty-six hours.

(B) No child may be placed in a family foster home unless the foster caregiver completes at least twelve additional hours of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code.

Sec. 5103.033. The department of job and family services may issue or renew a certificate under section 5103.03 of the Revised Code to a foster home for the care of a child who is in the custody of a public children services agency or private child placing agency pursuant to an agreement entered into under section 5103.15 of the Revised Code regarding a child who was less than six months of age on the date the agreement was executed if the foster caregiver successfully completes the following amount of training:

(A) For an initial certificate, at least twelve hours of preplacement training through ~~the Ohio child welfare training program~~ or a preplacement training program operated under section 5103.034 or 5153.60 of the Revised Code;

(B) For renewal of a certificate, at least twelve hours each year of continuing training in accordance with the foster caregiver's needs assessment and continuing training plan developed and implemented under section 5103.035 of the Revised Code.

Sec. 5103.034. ~~(A) A public children services agency,~~ private child placing agency, or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code or the Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code shall make the program available to

foster caregivers. The agency or program shall make the programs available without regard to the type of recommending agency from which a foster caregiver seeks a recommendation ~~and without charge to the foster caregiver.~~

(B) A private child placing agency or private noncustodial agency operating a preplacement training program or continuing training program approved by the department of job and family services under section 5103.038 of the Revised Code may condition the enrollment of a foster caregiver in a program on either or both of the following:

(1) Availability of space in the training program;

(2) If applicable, payment of an instruction or registration fee, if any, by the foster caregiver's recommending agency.

(C) The Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code may condition the enrollment in a preplacement training program or continuing training program of a foster caregiver whose recommending agency is a private child placing agency or private noncustodial agency on either or both of the following:

(1) Availability of space in the training program;

(2) Assignment to the program by the foster caregiver's recommending agency of the allowance payable under section 5103.0313 of the Revised Code.

(D) A private child placing agency or private noncustodial agency may contract with an individual or a public or private entity to administer a preplacement training program or continuing training program operated by the agency and approved by the department of job and family services under section 5103.038 of the Revised Code.

Sec. 5103.036. For the purpose of determining whether a foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from ~~the Ohio child welfare training program or pursuant to a preplacement training program or continuing training program operated under section 5103.034 or 5153.60 of the Revised Code regardless of whether the program is operated by the recommending agency operated the preplacement training program or continuing training program.~~ The agency may require that the foster caregiver successfully complete additional training as a condition of the agency recommending that the department of job and family services certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code.

Sec. 5103.037. The department of job and family services, in

consultation with the departments of youth services, mental health, education, mental retardation and developmental disabilities, and alcohol and drug addiction services, shall develop a model design of a preplacement training program for foster caregivers seeking an initial certificate under section 5103.03 of the Revised Code and a model design of a continuing training program for foster caregivers seeking renewal of a certificate under that section. The model design of a preplacement training program shall comply with section 5103.039 of the Revised Code. The model design of a continuing training program shall comply with section 5103.0310 of the Revised Code. The department of job and family services shall make the model designs available to ~~public children services agencies~~ the Ohio child welfare training program, private child placing agencies, and private noncustodial agencies.

Sec. 5103.038. (A) Every other year by a date specified in rules adopted under section 5103.0316 of the Revised Code, each ~~public children services agency~~, private child placing agency, and private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code shall submit to the department of job and family services a proposal outlining the program. The proposal may be the same as, a modification of, or different from, a model design developed under section 5103.037 of the Revised Code. ~~The proposal shall include a budget for the program regarding the cost associated with trainers, obtaining sites at which the training is provided, and the administration of the training. The budget shall be consistent with rules adopted under section 5103.0316 of the Revised Code governing the department of job and family services' reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code.~~

(B) Not later than thirty days after receiving a proposal under division (A) of this section, the department shall either approve or disapprove the proposed program. The department shall approve a proposed preplacement training program if it complies with section 5103.039 or 5103.0310 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a preplacement training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the program. The department shall approve a proposed continuing training program if it complies with section 5103.0310 or 5103.0311 of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a continuing training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the

program. ~~The department shall disapprove a proposed program if the~~ program's budget is not consistent with rules adopted under section 5103.0316 of the Revised Code governing the department's reimbursement of public children services agencies, private child placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code. If the department disapproves a proposal, it shall provide the reason for disapproval to the agency that submitted the proposal and advise the agency of how to revise the proposal so that the department can approve it.

(C) The department's approval under division (B) of this section of a proposed preplacement training program or continuing training program is valid only for two years following the year the proposal for the program is submitted to the department under division (A) of this section.

Sec. 5103.0312. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for foster caregivers who hold certificates issued under section 5103.03 of the Revised Code shall pay those foster caregivers ~~who have had at least one foster child placed in their home~~ a stipend to reimburse them for attending training courses provided by the Ohio child welfare training program or ~~pursuant to~~ a preplacement training program or continuing training program operated under section 5103.034 or 5153.60 of the Revised Code. The payment shall be based on a stipend rate established by the department of job and family services. The stipend rate shall be the same regardless of the type of recommending agency from which a foster caregiver seeks a recommendation. The department shall, pursuant to rules adopted under section 5103.0316 of the Revised Code, reimburse the recommending agency for stipend payments it makes in accordance with this section.

Sec. 5103.0313. The department of job and family services shall ~~reimburse the following~~ compensate a private child placing agency or private noncustodial agency for the cost of providing procuring or operating preplacement and continuing training to foster caregivers:

~~(A) The Ohio child welfare training program;~~

~~(B) A public children services agency, private child placing agency, or private noncustodial agency through a preplacement training program or continuing training program operated programs~~ under section 5103.034 of the Revised Code for foster caregivers who are recommended for initial certification or recertification by the agency.

~~The reimbursement compensation shall be on a per diem basis and limited to the cost associated with the trainer, obtaining a site at which the training is provided, and the administration of the training paid to the agency in the form of an allowance for each hour of preplacement and continuing~~

~~training provided or received. A reimbursement rate shall be the same regardless of whether the training program is operated by the Ohio child welfare training program or a public children services agency, private child placing agency, or private noncustodial agency.~~

Sec. 5103.0314. The department of job and family services shall not ~~reimburse~~ compensate a recommending agency for ~~the cost of~~ any training the agency requires a foster caregiver to undergo as a condition of the agency recommending the department certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code if the training is in addition to the minimum training required by section 5103.031 or 5103.032 of the Revised Code.

Sec. 5103.0315. The department of job and family services shall seek federal financial participation for the cost of making payments under section 5103.0312 of the Revised Code and ~~reimbursements~~ allowances under section 5103.0313 of the Revised Code. The department shall notify the governor, president of the senate, minority leader of the senate, speaker of the house of representatives, and minority leader of the house of representatives of any proposed federal legislation that endangers the federal financial participation.

Sec. 5103.0316. ~~Not later than ninety days after January 1, 2001, the~~ The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the efficient administration of sections 5103.031 to 5103.0316 of the Revised Code. The rules shall provide for all of the following:

(A) For the purpose of section 5103.038 of the Revised Code, the date by which a ~~public children services agency, private child placing agency, or private noncustodial agency~~ that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code must submit to the department a proposal outlining the program;

(B) Requirements governing the department's ~~reimbursement compensation of the Ohio child welfare training program and public children services agencies,~~ private child placing agencies, and private noncustodial agencies under sections 5103.0312 and 5103.0313 of the Revised Code;

(C) Any other matter the department considers appropriate.

Sec. 5103.154. (A) Information concerning all children who are, pursuant to section 2151.353 or 5103.15 of the Revised Code, in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised

Code shall be listed with the department within ninety days after permanent custody is effective, unless the child has been placed for adoption or unless an application for placement was initiated under section 5103.16 of the Revised Code.

(B) All persons who wish to adopt children, and are approved by an agency so empowered under this chapter, shall be listed with the department within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(C) All persons who wish to adopt a child with special needs as defined in rules adopted under section 5153.163 of the Revised Code, and who are approved by an agency so empowered under this chapter, shall be listed separately by the department within ninety days of approval, unless a person requests in writing that that person's name not be so listed, or has had a child with special needs placed in that person's home in preparation for adoption, or has filed a petition for adoption.

(D) The department shall forward information on such children and listed persons at least quarterly, to all public children services agencies and all certified agencies.

(E) The appropriate listed names shall be removed when a child is placed in an adoptive home or when a person withdraws an application for adoption.

(F) No later than six months after the end of each fiscal year, the department shall compile a report of its conclusions regarding the effectiveness of its actions pursuant to this section and of the restrictions on placement under division ~~(E)~~(G) of section 5153.163 of the Revised Code in increasing adoptive placements of children with special needs, together with its recommendations, and shall submit a copy of the report to the chairpersons of the principal committees of the senate and the house of representatives who consider welfare legislation.

Sec. 5103.155. As used in this section, "children with special needs" has the same meaning as in rules adopted under section 5153.163 of the Revised Code.

If the department of job and family services determines that money in the putative father registry fund created under section 2101.16 of the Revised Code is more than is needed to perform its duties related to the putative father registry, the department may use surplus moneys in the fund to promote adoption of children with special needs.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily

operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it.

(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(H) "Child" includes an infant, toddler, preschool child, or school child.

(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation

time from a child's home to a child day camp and from a child day camp to a child's home.

(K) "Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

(L) "Child day-care center" and "center" mean any place in which child day-care or publicly funded child day-care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child day-care, but not publicly funded child day-care, if all of the following apply:

(a) An organized religious body provides the child day-care;

(b) A parent, custodian, or guardian of at least one child receiving child day-care is on the premises and readily accessible at all times;

(c) The child day-care is not provided for more than thirty days a year;

(d) The child day-care is provided only for preschool and school children.

(M) "Child day-care resource and referral service organization" means a community-based nonprofit organization that provides child day-care resource and referral services but not child day-care.

(N) "Child day-care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child day-care providers

in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child day-care;

(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;

(4) Recruitment of child day-care providers;

(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child day-care in the community;

(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;

(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;

(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.

(O) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

(P) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for children on a temporary, irregular basis.

(Q) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

(R) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

(S) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(T) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, or under ~~section~~ sections 3301.31 to 3301.37 of the Revised Code.

(U) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

(W) "Infant" means a child who is less than eighteen months of age.

(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.

(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.

(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section

3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

(BB) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

(CC) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

(DD) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

(EE) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

(FF) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child day-care or publicly funded child day-care for no more than four hours a day for any child.

(GG) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.

(HH) "Preschool child" means a child who is three years old or older but is not a school child.

(II) "Protective day-care" means publicly funded child day-care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective day-care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are

otherwise ineligible for publicly funded child day-care.

(JJ) "Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act funds Title IV-A, and Title XX, distributed by the department of job and family services.

(KK) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

(NN) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

(OO) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(PP) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

(QQ) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is provided for four to twelve children at one time if four or more children at

one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(QQ)~~(SS) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child day-care and the needs of children receiving child day-care or publicly funded child day-care and, ~~no later than January 1, 1992,~~ shall include specific rules for school child day-care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The rules shall include the following:

- (1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;
- (2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;
- (3) Standards for the supervision, care, and discipline of children

receiving child day-care or publicly funded child day-care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention.

Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the center;

(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child day-care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		
(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		

(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, or at least two years of experience in supervising and giving daily care to children attending an organized group program.

(b) In addition to the requirements of division (B)(4)(a) of this section,

any administrator employed or designated on or after September 1, 1986, shall show evidence of, and any administrator employed or designated prior to September 1, 1986, shall show evidence within six years after such date of, at least one of the following:

- (i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

- (ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

- (iii) A child development associate credential issued by the national child development associate credentialing commission;

- (iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

- (a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

- (i) A graduate of a two-year vocational child-care training program approved by the state board of education;

- (ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

- (b) A child-care staff member shall be exempt from the educational

requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; or

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(6) Every child day-care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori international. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

(7) The administrator of each child day-care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to

any person other than a parent, custodian, or guardian of a child who attends the center.

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid and in prevention, recognition, and management of communicable diseases which is approved by the state department of health and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, except as otherwise provided in division (B)(7) of this section and except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number of inservice training hours required under division (B)(6) of this section; or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section; however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the

older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than one and one-half hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child day-care and the needs of children receiving child day-care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the

provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial and renewal license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;

(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type A home;

(18) Standards for the maximum number of children per child-care staff member;

(19) Requirements for the amount of usable indoor floor space for each child;

(20) Requirements for safe outdoor play space;

(21) Qualifications and training requirements for administrators and for

child-care staff members;

(22) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(23) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

(24) Any other procedures and standards necessary to carry out this chapter.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(a) Persons who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(b) Persons who provide child day-care for eligible children all of whom are the children of the same caretaker parent.

The rules shall require, and shall include procedures for the director to ensure, that type B family day-care homes that receive a limited certification provide child day-care to children in a safe and sanitary manner. With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child day-care during the provisional period. Except as otherwise provided in division (G)(1) of this section, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a) of this section or a person described in division (G)(1)(b) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health

and safety requirements are being met in the home. If such verification is provided, the county shall waive any inspection and any criminal records check required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child day-care or publicly funded child day-care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

(n) Qualification and training requirements for authorized providers;

(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(p) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child day-care in their own home;

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(6) Standards for the safe transport of children when under the care of in-home aides;

(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

- (8) Procedures for inspection of homes of children receiving publicly funded child day-care in their own homes;
- (9) Procedures for record keeping and evaluation;
- (10) Procedures for receiving, recording, and responding to complaints;
- (11) Qualifications and training requirements for in-home aides;
- (12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;
- (13) Any other procedures and standards necessary to carry out this chapter.

(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

(J)(1) The director of job and family services shall ~~send copies~~ do all of the following:

(a) Send to each licensee notice of proposed rules to each licensee and each county director of job and family services and shall give governing the licensure of child day-care centers and type A homes;

(b) Give public notice of hearings regarding the rules to each licensee and each county director of job and family services at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code.;

(c) Prior to the effective date of a rule, the director of job and family services shall provide copies, in either paper or electronic form, a copy of the adopted rule to each licensee and each county director of job and family services.

(2) The director shall do all of the following:

(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;

(c) Provide to each county director of job and family services an electronic copy of each adopted rule prior to the rule's effective date.

(3) The county director of job and family services shall send copies of proposed rules to each authorized provider and in-home aide and shall give public notice of hearings regarding the rules to each authorized provider and

in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. Prior to the effective date of a rule, the county director of job and family services shall provide copies of the adopted rule to each authorized provider and in-home aide.

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.02. (A) The director of job and family services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the requirements of this chapter:

(1) A program of child day-care that operates for two or less consecutive weeks;

(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises at which a parent, custodian, or

guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of job and family services or the state board of education when the director of job and family services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each state department shall submit to the director of job and family services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

- (i) The site location of the program;
- (ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;
- (iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;
- (iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program, except a head start program, that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

- (a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;
- (b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:

(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.

(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.

(c) The state board of education has approved the program's participation in the child and adult care food program as an outside-school-hours care center pursuant to standards established under section 3313.813 of the Revised Code.

(d) The community-based center operating the program is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1) The department shall, at least twice during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

At least one inspection shall be unannounced and all inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall investigate and may inspect a center or type A home.

(2) If the department implements an instrument-based program

monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall, at least once during every twelve-month period of operation of a center or type A home, collect information concerning the amounts charged by the center or home for providing child day-care services for use in establishing rates of reimbursement and payment pursuant to section 5104.30 of the Revised Code.

(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license.

(D) The department may deny or revoke a license, or refuse to renew a license of a center or type A home, if the applicant knowingly makes a false statement on the application, does not comply with the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code, or has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

(E) If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any person, firm, organization, institution, or agency licensed under section 5104.03 of the Revised Code is in violation of any provision of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department may issue an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of any order of revocation, the person whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

(F) The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

(G) Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child day-care without a license issued or renewed pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or

type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of Chapter 5104. or rules adopted pursuant to Chapter 5104. of the Revised Code.

(H) The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

(I) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child day-care in this state. Publicly funded child day-care shall be provided to the following:

(1) Recipients of transitional child day-care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child day-care on October 1,

1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child day-care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child day-care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child day-care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child day-care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child day-care, including appropriations of state funds for publicly funded child day-care and appropriations of federal funds ~~for publicly funded child day-care available under Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended, and the child care block grant act, Title IV-A, and Title XX.~~ The department may use any state funds appropriated for publicly funded child day-care as the state share required to match any federal funds appropriated for publicly funded child day-care.

(C) ~~The department may~~ In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child day-care.

(2) Not more than five per cent of the aggregate amount of ~~those~~ the federal funds received for a fiscal year may be expended for administrative costs. ~~The~~

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(1)(a) Activities designed to provide comprehensive consumer education to parents and the public;

(2)(b) Activities that increase parental choice;

(3)(c) Activities, including child day-care resource and referral services, designed to improve the quality, and increase the supply, of child day-care.

(D)(4) The department shall ensure that ~~any~~ the federal funds ~~received by the state under the child care block grant act~~ will be used only to

supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of ~~that~~ the child care block grant act for publicly funded child day-care and related programs. A county department of job and family services may purchase child day-care from funds obtained through any other means.

~~(F)~~(D) The department shall encourage the development of suitable child day-care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child day-care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child day-care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child day-care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department may develop and maintain a registry of persons providing child day-care. The director may adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

~~(F)~~(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child day-care;

(b) A procedure for reimbursing and paying providers of publicly funded child day-care.

(2) In establishing reimbursement ceilings under division ~~(F)~~(E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child day-care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a) of section

5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(3) In establishing reimbursement ceilings under division ~~(F)~~(E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

- (a) Geographic location of the provider;
- (b) Type of care provided;
- (c) Age of the child served;
- (d) Special needs of the child served;
- (e) Whether the expanded hours of service are provided;
- (f) Whether weekend service is provided;
- (g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child day-care;
- (h) Any other factors the director considers appropriate.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child day-care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child day-care provider and the county department of job and family services. A county department of job and family services may enter into a contract with a provider for publicly funded child day-care for a specified period of time or upon a continuous basis for an unspecified period of time. All contracts for publicly funded child day-care shall be contingent upon the availability of state and federal funds. The department of job and family services shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child day-care, regardless of the source of public funds used to purchase the child day-care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state or county contracts or contracts involving the expenditure of state, county, or federal funds, all contracts for publicly funded child day-care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state or county contracts

or contracts involving the expenditure of state, county, or federal funds.

(B) Each contract for publicly funded child day-care shall specify at least the following:

(1) That the provider of publicly funded child day-care agrees to be paid for rendering services at the lowest of the rate customarily charged by the provider for children enrolled for child day-care, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider;

(2) That, if a provider provides child day-care to an individual potentially eligible for publicly funded child day-care who is subsequently determined to be eligible, the county department agrees to pay for all child day-care provided between the date the county department receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child day-care resource and referral service organization will make eligibility determinations, whether the provider or a child day-care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child day-care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child day-care provider or except as provided in division (B) of section 3301.37 of the Revised Code, shall continue to be licensed, approved, or certified pursuant to this chapter ~~or sections 3301.52 to 3301.59 of the Revised Code~~ and shall comply with all standards and other requirements in this chapter ~~and those sections~~ and in rules adopted pursuant to this chapter ~~or those sections~~ for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child day-care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the county department of job and family services or the state department of job and family services;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law, the county department of job and family services shall give individuals eligible for publicly funded child day-care the option of obtaining certificates for payment that the individual may use to purchase services from any provider qualified to provide publicly funded child day-care under section 5104.31 of the Revised Code. Providers of publicly funded child day-care may present these certificates for payment for reimbursement in accordance with rules that the director of job and family services shall adopt. Only providers may receive reimbursement for certificates for payment. The value of the certificate for payment shall be based on the lowest of the rate customarily charged by the provider, the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code, or a rate the county department negotiates with the provider. The county department may provide the certificates for payment to the individuals or may contract with child day-care providers or child day-care resource and referral service organizations that make determinations of eligibility for publicly funded child day-care pursuant to contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates for payment to individuals whom they determine are eligible for publicly funded child day-care.

For each six-month period a provider of publicly funded child day-care provides publicly funded child day-care to the child of an individual given certificates ~~of~~ for payment, the individual shall provide the provider certificates for days the provider would have provided publicly funded child day-care to the child had the child been present. County departments shall specify the maximum number of days providers will be provided certificates of payment for days the provider would have provided publicly funded child day-care had the child been present. The maximum number of days shall not exceed ten days in a six-month period during which publicly funded child day-care is provided to the child regardless of the number of providers that provide publicly funded child day-care to the child during that period.

Sec. 5107.02. As used in this chapter:

(A) "Adult" means an individual who is not a minor child.

(B) "Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for and the amount of assistance provided under Ohio works first.

(C) "Custodian" means an individual who has legal custody, as defined in section 2151.011 of the Revised Code, of a minor child or comparable status over a minor child created by a court of competent jurisdiction in another state.

(D) "Guardian" means an individual that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code, or a court of competent jurisdiction in another state, to exercise parental rights over a minor child to the extent provided in the court's order and subject to residual parental rights of the minor child's parents.

(E) "Minor child" means either of the following:

(1) An individual who has not attained age eighteen;

(2) An individual who has not attained age nineteen and is a full-time student in a secondary school or in the equivalent level of vocational or technical training.

(F) "Minor head of household" means a minor child who is either of the following:

(1) ~~At~~ Is married, at least six months pregnant, and a member of an assistance group that does not include an adult;

(2) ~~A~~ Is married and is a parent of a child included in the same assistance group that does not include an adult.

(G) "Ohio works first" means the program established by this chapter known as temporary assistance for needy families in Title IV-A.

(H) "Payment standard" means the amount specified in rules adopted under section 5107.05 of the Revised Code that is the maximum amount of cash assistance an assistance group may receive under Ohio works first from state and federal funds.

(I) "Specified relative" means the following individuals who are age eighteen or older:

(1) The following individuals related by blood or adoption:

(a) Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";

(b) Siblings;

(c) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";

(d) First cousins and first cousins once removed.

(2) Stepparents and stepsiblings;

(3) Spouses and former spouses of individuals named in division (I)(1) or (2) of this section.

(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5107.30. (A) As used in this section:

(1) "LEAP program" means the learning, earning, and parenting program.

(2) "Teen" means a participant of Ohio works first who is under age

~~twenty~~ eighteen or is age eighteen and in school and is a natural or adoptive parent or is pregnant.

(3) "School" means an educational program that is designed to lead to the attainment of a high school diploma or the equivalent of a high school diploma.

(B) The director of job and family services may adopt rules under section 5107.05 of the Revised Code, to the extent that such rules are consistent with federal law, to do all of the following:

(1) Define "good cause" and "the equivalent of a high school diploma" for the purposes of this section;

(2) Conduct ~~one or more special demonstration programs~~ a program titled the "LEAP program" and establish requirements governing the program. The purpose of the LEAP program is to encourage teens to complete school.

(3) Require every teen who is subject to LEAP program requirements to attend school in accordance with the requirements governing the program unless the teen shows good cause for not attending school. The department shall provide, in addition to the cash assistance payment provided under Ohio works first, an incentive payment, in an amount determined by the department, to every teen who is participating in the LEAP program and attends school in accordance with the requirements governing the program. The department shall reduce the cash assistance payment, in an amount determined by the department, under Ohio works first to every teen participating in the LEAP program who fails or refuses, without good cause, to ~~attend school in accordance with~~ meet the requirements governing the program.

(4) Require every teen who is subject to LEAP program requirements to enter into a written agreement with the county department of job and family services that provides all of the following:

(a) The teen, to be eligible to receive the incentive payment under division (B)(3) of this section, must ~~attend school in accordance with~~ meet the requirements of the LEAP program;.

(b) The county department will provide the incentive payment to the teen if the teen ~~attends school;~~ meets the requirements of the LEAP program.

(c) The county department will reduce the cash assistance payment under Ohio works first if the teen fails or refuses without good cause to attend school in accordance with the requirements governing the LEAP program.

(5) ~~Evaluate the demonstration programs established under this section.~~

~~In conducting the evaluations, the department of job and family services shall select control groups of teens who are otherwise subject to the LEAP program requirements.~~

(C) A ~~teen~~ minor head of household who is participating in the LEAP program shall be considered to be participating in a work activity for the purpose of sections 5107.40 to 5107.69 of the Revised Code. However, the ~~teen~~ minor head of household is not subject to the requirements or sanctions of those sections, ~~unless the teen is over age eighteen and meets the LEAP program requirements by participating regularly in work activities, developmental activities, or alternative work activities under those sections.~~

(D) Subject to the availability of funds, county departments of job and family services shall provide for LEAP participants to receive support services the county department determines to be necessary for LEAP participation. Support services may include publicly funded child day-care under Chapter 5104. of the Revised Code, transportation, and other services.

Sec. 5107.37. ~~An~~ (A) Except as provided in division (B) of this section, an individual who resides in a county home, city infirmary, jail, or other public institution is not eligible to participate in Ohio works first.

(B) Division (A) of this section does not apply to a minor child residing with the minor child's mother who participates in a prison nursery program established under section 5120.65 of the Revised Code.

Sec. 5107.40. As used in sections 5107.40 to 5107.69 of the Revised Code:

(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.64 of the Revised Code.

(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.62 of the Revised Code.

(C) "High school equivalence diploma" means a diploma attesting to achievement of the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education. "High school equivalence diploma" includes a certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development.

(D) "Work activity" means the following:

(1) Unsubsidized employment activities established under section 5107.60 of the Revised Code;

(2) The subsidized employment program established under section 5107.52 of the Revised Code;

(3) The work experience program established under section 5107.54 of the Revised Code;

(4) On-the-job training activities established under section 5107.60 of the Revised Code;

(5) The job search and readiness program established under section 5107.50 of the Revised Code;

(6) Community service activities established under section 5107.60 of the Revised Code;

(7) Vocational educational training activities established under section 5107.60 of the Revised Code;

(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;

(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;

(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma;

(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity;

(12) The education program established under section 5107.58 of the Revised Code that are operated pursuant to a federal waiver granted by the United States secretary of health and human services pursuant to a request made under former section 5101.09 of the Revised Code;

(13) ~~Except as limited~~ To the extent provided by division (C) of section 5107.30 of the Revised Code, the LEAP program established under that section.

Sec. 5107.60. In accordance with Title IV-A, federal regulations, state law, the Title IV-A state plan prepared under section 5101.80 of the Revised Code, and amendments to the plan, county departments of job and family services shall establish and administer the following work activities, in addition to the work activities established under sections 5107.50, 5107.52,

5107.54, and 5107.58 of the Revised Code, for minor heads of households and adults participating in Ohio works first:

(A) Unsubsidized employment activities, including activities a county department determines are legitimate entrepreneurial activities;

(B) On-the-job training activities, including training to become an employee of a child day-care center or type A family day-care home, authorized provider of a certified type B family day-care home, or in-home aide;

(C) Community service activities including a program under which a participant of Ohio works first who is the parent, guardian, custodian, or specified relative responsible for the care of a minor child enrolled in grade twelve or lower is involved in the minor child's education on a regular basis;

(D) Vocational educational training activities;

(E) Jobs skills training activities that are directly related to employment;

(F) Education activities that are directly related to employment for participants who have not earned a high school diploma or high school equivalence diploma;

(G) Education activities for participants who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma, including LEAP participation by a minor head of household;

(H) Child-care service activities aiding another participant assigned to a community service activity or other work activity. A county department may provide for a participant assigned to this work activity to receive training necessary to provide child-care services.

Sec. 5108.01. As used in this chapter:

(A) ~~"Assistance group" means a group of individuals treated as a unit for purposes of determining eligibility for the prevention, retention, and contingency program~~ "County family services planning committee" means the county family services planning committee established under section 329.06 of the Revised Code or the board created by consolidation under division (C) of section 6301.06 of the Revised Code.

(B) "Prevention, retention, and contingency program" means the program established by this chapter and funded in part with federal funds provided under Title IV-A.

(C) "Title IV-A" means Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

Sec. 5108.03. Under the prevention, retention, and contingency program, ~~a~~ each county department of job and family services shall ~~provide~~

do both of the following in accordance with the statement of policies the county department develops under section 5108.04 of the Revised Code:

(A) Provide benefits and services that individuals need to overcome immediate barriers to achieving or maintaining self sufficiency and personal responsibility;

(B) Perform related administrative duties. ~~A county department shall~~ provide the benefits and services in accordance with either the model design for the program that the department of job and family services develops under section 5108.05 of the Revised Code or the county department's own policies for the program developed under section 5108.06 of the Revised Code.

~~Sec. 5108.06~~ 5108.04. Each county department of job and family services shall ~~either adopt the model design for a written statement of policies governing~~ the prevention, retention, and contingency program ~~the department of job and family services develops under section 5108.05 of the Revised Code or develop its own policies for the program county~~. To develop its own policies, a county department shall adopt a written statement of the policies governing the program. The policies may be a modification of the model design, different from the model design, or a combination. The statement of policies shall be adopted not later than October 1, 2003, and shall be updated at least every two years thereafter. A county department may amend its statement of policies to modify, terminate, and establish new policies. The county director of job and family services shall sign and date the statement of policies and any amendment to it. Neither the statement of policies nor any amendment to it may have an effective date that is earlier than the date of the county director's signature.

~~A~~ Each county department of job and family services shall ~~inform~~ provide the department of job and family services ~~of whether it has adopted~~ the model design or developed its own policies for the prevention, retention, and contingency program. If a county department develops its own policies, ~~it shall provide the department~~ a written copy of the statement of policies and any amendments it adopts to the statement not later than ten calendar days after the statement or amendment's effective date.

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention, retention, and contingency program that the department of job and family services develops under section 5108.05 of the Revised Code and policies for the program that a county department of job and family services may develop under section 5108.06 of the Revised Code shall establish~~ In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, each county

department of job and family services shall do all of the following:

(A) Establish or specify eligibility requirements for assistance groups that apply for the program under section 5108.10 of the Revised Code, benefits all of the following:

(1) Benefits and services to be provided under the program to assistance groups, administrative that are allowable uses of federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a) but rather benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance;

(2) Restrictions on the amount, duration, and frequency of the benefits and services;

(3) Eligibility requirements for the benefits and services;

(4) Fair and equitable procedures for both of the following:

(a) The certification of eligibility for the benefits and services that do not have a financial need eligibility requirement;

(b) The determination and verification of eligibility for the benefits and services that have a financial need eligibility requirement.

(5) Objective criteria for the delivery of the benefits and services;

(6) Administrative requirements, and other;

(7) Other matters the department, in the case of the model design, or a county department, in the case of county policies, determine determines are necessary.

~~The model design and a county department's policies may establish eligibility requirements for, and specify benefits and services to be provided to, types of groups, such as students in the same class, that share a common need for the benefits and services. If the model design or a county department's policies include such a provision, the model design or county department's policies shall require that each individual who is to receive the benefits and services meet the eligibility requirements established for the type of group of which the individual is a member. The model design or county department's policies also shall require that the county department providing the benefits and services certify the group's eligibility, specify the duration that the group is to receive the benefits and services, and maintain the eligibility information for each member of the group receiving the benefits and services.~~

~~The model design and a county department's policies may specify benefits and services that a county department may provide for the general public, including billboards that promote the prevention, and reduction in the incidence, of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families.~~

~~The model design and a county department's policies must be consistent with~~ (B) Provide for the statement of policies to be consistent with all of the following:

(1) The plan of cooperation the board of county commissioners develops under section 307.983 of the Revised Code;

(2) The review and analysis of the county family services committee conducted in accordance with division (B)(2) of section 329.06 of the Revised Code;

(3) Title IV-A, federal regulations, state law, the Title IV-A state plan submitted to the United States secretary of health and human services under section 5101.80 of the Revised Code, and amendments to the plan. All benefits and services to be provided under the model design or a county department's policies must be allowable uses of federal Title IV-A funds as specified in 42 U.S.C.A. 604(a), except that they may not be "assistance" as defined in 45 C.F.R. 260.31(a). The benefits and services shall be benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(C) Either provide the public and local government entities at least thirty days to submit comments on, or have the county family services planning committee review, the statement of policies, including the design of the county's prevention, retention, and contingency program, before the county director signs and dates the statement of policies.

Sec. 5108.051. A county department of job and family services is not required to follow division (C) of section 5108.05 of the Revised Code when amending its statement of policies under section 5108.04 of the Revised Code. Division (C) of section 5108.05 of the Revised Code applies only when a county department adopts its initial and updated statement of policies under section 5108.04 of the Revised Code.

Sec. 5108.06. In adopting a statement of policies under section 5108.04 of the Revised Code for the county's prevention, retention, and contingency program, a county department of job and family services may specify both of the following:

(A) Benefits and services to be provided under the program that prevent and reduce the incidence of out-of-wedlock pregnancies or encourage the formation and maintenance of two-parent families as permitted by 45 C.F.R. 260.20(c) and (d);

(B) How the county department will certify individuals' eligibility for such benefits and services.

Sec. 5108.07. (A) Each statement of policies adopted under section 5108.04 of the Revised Code shall include the board of county

commissioners' certification that the county department of job and family services complied with this chapter in adopting the statement of policies.

(B) The board of county commissioners shall revise its certification under division (A) of this section if an amendment to the statement of policies that the board considers to be significant is adopted under section 5108.04 of the Revised Code.

Sec. 5108.09. When a state hearing under division (B) of section 5101.35 of the Revised Code or an administrative appeal under division (C) of that section is held regarding the prevention, retention, and contingency program, the hearing officer, director of job and family services, or director's designee shall base the decision in the hearing or appeal on the following:

~~(A) If the county department of job and family services involved in the hearing or appeal adopted the department of job and family services' model design for the program developed under section 5108.05 of the Revised Code, the model design;~~

~~(B) If the county department developed its own policies for the program,~~ the county department's department of job and family services' written statement of policies adopted under section ~~5108.06~~ 5108.04 of the Revised Code and any amendments the county department adopted to the statement if the county department provides a copy of the statement of policies and all amendments to the hearing officer, director, or director's designee at the hearing or appeal.

Sec. 5108.10. ~~An assistance group seeking to participate in the prevention, retention, and contingency program shall apply to a county department of job and family services using~~ Eligibility for a benefit or service under a county's prevention, retention, and contingency program shall be certified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code if the benefit or service does not have a financial need eligibility requirement.

Eligibility for a benefit or service shall be determined in accordance with the statement of policies and based on an application containing information the county department of job and family services requires.

~~When if the benefit or service has a financial need eligibility requirement.~~ When a county department receives an application for ~~participation in the prevention, retention, and contingency program such~~ benefits and services, it shall ~~promptly make an investigation and record of the circumstances of the applicant in order to ascertain~~ follow verification procedures established by the statement of policies to verify the facts surrounding the application and to obtain such other information as may be

required. On completion of the ~~investigation~~ verification procedure, the county department shall determine whether the applicant is eligible ~~to participate, for the benefits or services the applicant should receive,~~ and the approximate date when ~~participation is~~ the benefits or services are to begin.

Sec. 5108.11. (A) To the extent permitted by section 307.982 of the Revised Code, a board of county commissioners may enter into a written contract with a private or government entity for the entity to do either or both of the following for the county's prevention, retention, and contingency program:

(1) Certify eligibility for benefits and services that do not have a financial need eligibility requirement;

(2) Accept applications and determine and verify eligibility for benefits and services that have a financial need eligibility requirement.

(B) If a board of county commissioners enters into a contract under division (A) of this section with a private or government entity, the county department of job and family services shall do all of the following:

(1) Ensure that eligibility for benefits and services is certified or determined and verified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code;

(2) Ensure that the private or government entity maintains all records that are necessary for audits;

(3) Monitor the private or government entity for compliance with Title IV-A, this chapter of the Revised Code, and the statement of policies;

(4) Take actions that are necessary to recover any funds that are not spent in accordance with Title IV-A or this chapter of the Revised Code.

Sec. 5108.12. Each county department of job and family services is responsible for funds expended or claimed under the county's prevention, retention, and contingency program that the department of job and family services, auditor of state, United States department of health and human services, or other government entity determines is expended or claimed in a manner that federal or state law or policy does not permit.

Sec. 5111.016. (A) As used in this section, "healthcheck" has the same meaning as in section 3313.714 of the Revised Code.

(B) In accordance with federal law and regulations, the department of job and family services shall establish a combination of written and oral methods designed to provide information about healthcheck to all persons eligible for the program or their parents or guardians. The department shall ensure that its methods of providing information are effective.

Each county department of job and family services or other entity that distributes or accepts applications for medical assistance shall prominently

display in a conspicuous place the following notice:

"Under state and federal law, if you are a Medicaid recipient, your child is entitled to a thorough medical examination provided through Healthcheck. Once this examination is completed, your child is entitled to receive, at no cost to you, any service determined to be medically necessary."

(C) Before a healthcheck medical examination may be performed on a child, the department of job and family services shall do both of the following:

(1) Inform the child's parent, through both oral and written communication, that the examination may include the following components:

(a) A mental evaluation;

(b) A physical assessment;

(c) An unclothed physical examination of the child's reproductive system, including a genital examination.

(2) Obtain the parent's consent to perform the examination.

The department shall not require a parent to consent to a healthcheck medical examination for the parent's child as a condition of receipt of other medicaid services.

Sec. 5111.0112. The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations ~~and which of those groups are appropriate for a copayment program designed to reduce inappropriate and excessive use of medical goods and services.~~ If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the copayment program.

Sec. 5111.0113. Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution or in adoptions subsidized under division (B) of section 5153.163 of the Revised Code are eligible for medical assistance through the medicaid program established under section 5111.01 of the Revised Code.

Sec. 5111.02. (A) Under the medical assistance program:

(1) Except as otherwise permitted by federal statute or regulation and at the department's discretion, reimbursement by the department of job and family services to a medical provider for any medical service rendered under the program shall not exceed the authorized reimbursement level for the same service under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(2) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(3) The department may deduct from payments for services rendered by a medicaid provider under the medical assistance program any amounts the provider owes the state as the result of incorrect medical assistance payments the department has made to the provider.

(4) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(5) The number of days of inpatient hospital care for which reimbursement is made on behalf of a recipient of medical assistance to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(B) The director of job and family services may adopt, amend, or rescind rules under Chapter 119. of the Revised Code establishing the amount, duration, and scope of medical services to be included in the medical assistance program. Such rules shall establish the conditions under which services are covered and reimbursed, the method of reimbursement applicable to each covered service, and the amount of reimbursement or, in lieu of such amounts, methods by which such amounts are to be determined for each covered service. Any rules that pertain to nursing facilities or intermediate care facilities for the mentally retarded shall be consistent with sections 5111.20 to 5111.33 of the Revised Code.

~~(C) No health insuring corporation that has a contract to provide health care services to recipients of medical assistance shall restrict the availability to its enrollees of any prescription drugs included in the Ohio medicaid drug~~

~~formulary as established under rules adopted by the director.~~

(D) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.021. Under the medical assistance program, any amount determined to be owed the state by a final fiscal audit conducted pursuant to division (A)(4) of section 5111.02 of the Revised Code, upon the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code that contains a finding that there is a preponderance of the evidence that the provider will liquidate assets or file bankruptcy in order to prevent payment of the amount determined to be owed the state, becomes a lien upon the real and personal property of the provider. Upon failure of the provider to pay the amount to the state, the director of job and family services shall file notice of the lien, for which there shall be no charge, in the office of the county recorder of the county in which it is ascertained that the provider owns real or personal property. The director shall notify the provider by mail of the lien, but absence of proof that the notice was sent does not affect the validity of the lien. The lien is not valid as against the claim of any mortgagee, pledgee, purchaser, judgment creditor, or other lienholder of record at the time the notice is filed.

If the provider acquires real or personal property after notice of the lien is filed, the lien shall not be valid as against the claim of any mortgagee, pledgee, subsequent bona fide purchaser for value, judgment creditor, or other lienholder of record to such after-acquired property unless the notice of lien is refiled after the property is acquired by the provider and before the competing lien attaches to the after-acquired property or before the conveyance to the subsequent bona fide purchaser for value.

When the amount has been paid, the provider may record with the recorder notice of the payment. For recording such notice of payment, the recorder shall charge and receive from the provider a base fee of one dollar for services and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code.

In the event of a distribution of a provider's assets pursuant to an order of any court under the law of this state including any receivership, assignment for benefit of creditors, adjudicated insolvency, or similar proceedings, amounts then or thereafter due the state under this chapter have

the same priority as provided by law for the payment of taxes due the state and shall be paid out of the receivership trust fund or other such trust fund in the same manner as provided for claims for unpaid taxes due the state.

If the attorney general finds after investigation that any amount due the state under this chapter is uncollectable, in whole or in part, the attorney general shall recommend to the director the cancellation of all or part of the claim. The director may thereupon effect the cancellation.

Sec. 5111.022. (A) As used in this section:

(1) "Community mental health facility" means a community mental health facility that has a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is certified by the department of mental health or department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

~~(B) The state medicaid plan for providing medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C.A. 301, as amended, shall include provision of the following mental health services when provided by community mental health facilities described in division (B) of this section:~~

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

~~(B) Services shall be included in the state plan only when provided by community mental health facilities that have quality assurance programs accredited by the joint commission on accreditation of healthcare organizations or certified by the department of mental health or department of job and family services.~~

~~(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local~~

funds to match ~~Title XIX federal medicaid~~ reimbursement funds earned by the community mental health facilities. ~~Reimbursement for eligible services shall be based on the prospective cost of providing the services as developed in standards adopted as part of the comprehensive annual plan.~~

~~(D) As used in this section, "mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.~~

~~(E) With respect to services established by division (A) of this section, the~~ The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section. The terms of the contract between the department of job and family services and the department of mental health shall specify both of the following:

~~(1) That the department of mental health and boards of alcohol, drug addiction, and mental health services shall provide state and local matching funds for Title XIX of the "Social Security Act," for reimbursement of services established by division (A) of this section;~~

~~(2) How the community mental health facilities described in division (B) of this section will be paid for providing the services established by division (A) of this section.~~

(E) Not later than May 1, 2004, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.

(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide access and acuity standards for partial hospitalization mental health services and assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section 5111.022 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) In modifying the manner, or establishing a new manner, for medicaid to pay for the services specified in division (A) of this section, the director shall include a provision for obtaining federal financial participation for the costs that each board of alcohol, drug addiction, and mental health services incurs in its administration of those services. Except as provided in section 5111.92 of the Revised Code, the department of job and family services shall pay the federal financial participation obtained for such administrative costs to the board that incurs the administrative costs.

(C) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.03. (A) No provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the department of job and family services relating to the program. No provider shall willfully receive payments to which the provider is not entitled, or willfully receive payments in a greater amount than that to which the provider is entitled; nor shall any provider falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments. As used in this section, a provider engages in "deception" when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a provider has engaged in deception.

(B) Any provider who violates division (A) of this section shall be

liable, in addition to any other penalties provided by law, for all of the following civil penalties:

(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state;

(2) Payment of an amount equal to three times the amount of any excess payments;

(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;

(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(C) ~~In~~ As used in this division, "intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings given in section 5111.20 of the Revised Code.

In addition to the civil penalties provided in division (B) of this section, the director of job and family services, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider agreement between the department and the provider and stop reimbursement to the provider for services rendered for a period of up to five years from the date of conviction or entry of judgment. As used in this chapter, "owner" means any person having at least five per cent ownership in the medicaid provider. No such provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of termination as provided in division (C) of this section, nor, during the period of termination as provided in division (C) of this section, shall such provider, owner, officer, authorized agent, associate, manager, or employee receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor. The provider agreement shall not be terminated or reimbursement terminated if the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought

pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a medicaid provider agreement if the person can demonstrate that the person had no knowledge of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

~~Providers subject to sections 5111.20 to 5111.32 of the Revised Code~~
Nursing facility or intermediate care facility for the mentally retarded providers whose agreements are terminated pursuant to this section may continue to receive reimbursement for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer recipients to another facility or to alternate care and if federal funds are provided for such reimbursement.

(D) Any provider of services or goods contracting with the department of job and family services pursuant to Title XIX of the "Social Security Act," who, without intent, obtains payments under this chapter in excess of the amount to which the provider is entitled, thereby becomes liable for payment of interest on the amount of the excess payments at the maximum real estate mortgage rate on the date the payment was made to the provider for the period from the date upon which payment was made to the date upon which repayment is made to the state.

(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of job and family services. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.

(F) The authority, under state and federal law, of the department of job and family services or a county department of job and family services to recover excess payments made to a provider is not limited by the availability of remedies under sections 5111.11 and 5111.12 of the Revised Code for recovering benefits paid on behalf of recipients of medical assistance.

The penalties under this chapter apply to any overpayment, billing, or falsification occurring on and after April 24, 1978. All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 5111.06. (A)(1) As used in this section:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded ~~subject to sections as defined in section 5111.20 to 5111.32~~ of the Revised Code.

Sec. ~~5111.08~~ 5111.071. Commencing in December, 1986, and every second December thereafter, the director of job and family services shall establish a dispensing fee, effective the following January, for licensed pharmacists who are providers under this chapter. The dispensing fee shall take into consideration the results of the survey conducted under section 5111.07 of the Revised Code.

Sec. ~~5111.16~~ 5111.08. In accordance with subsection (g) of section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 U.S.C.A. 1396r-8(g), as amended, the department of job and family services shall establish an outpatient drug use review program to assure that prescriptions obtained by recipients of medical assistance under this chapter are appropriate, medically necessary, and unlikely to cause adverse medical results.

Sec. 5111.082. The director of job and family services, in rules adopted under section 5111.02 of the Revised Code, may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of job and family services a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. If necessary, the director may apply to the United States secretary of health and human services for a waiver of federal statutes and regulations to establish the supplemental drug rebate program.

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment

and implementation of the program.

If the director establishes a supplemental drug rebate program, the director shall exempt from the program and from prior authorization or any other restriction all of a drug manufacturer's drug products that have been approved by the United States food and drug administration and for which there is no generic equivalent for the treatment of either of the following:

(A) Mental illness, as defined in section 5122.01 of the Revised Code, including schizophrenia, major depressive disorder, and bipolar disorder;

(B) HIV or AIDS, both as defined in section 3701.24 of the Revised Code.

Sec. 5111.083. (A) Each time before the director of job and family services contracts with a person to administer the medicaid program's preferred drug list established under rules adopted under section 5111.02 of the Revised Code or supplemental drug rebate program established under section 5111.082 of the Revised Code, an advisory council consisting of the following members shall be appointed to review the proposals submitted by persons seeking the contract and to select the person who is to be awarded the contract:

(1) The director of job and family services;

(2) One member of the house of representatives who is a member of the majority party and one member of the house of representatives who is a member of the minority party, appointed by the speaker of the house of representatives;

(3) One member of the senate who is a member of the majority party and one member of the senate who is a member of the minority party, appointed by the president of the senate;

(4) One representative of patient advocates, appointed by the speaker of the house of representatives;

(5) One representative of patient advocates, appointed by the president of the senate;

(6) One representative of the Ohio state medical association, appointed by that association's executive director;

(7) One representative of large businesses, appointed by the president of the Ohio chamber of commerce;

(8) One representative of small businesses, appointed by the state director of the Ohio chapter of the national federation of independent businesses;

(9) One representative of local government, appointed by the executive director of the county commissioners' association of Ohio.

The advisory council shall elect a chairperson from among its members.

(B) All of the following apply to an advisory council appointed under this section:

(1) It is subject to the open meetings law under section 121.22 of the Revised Code.

(2) Its members may vote to select the person to be awarded the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program only if a quorum of the members is present at the meeting at which the vote is taken.

(3) Its members shall not be reimbursed for their expenses incurred in their work on the advisory council.

(4) It may seek grants, donations, or other funds to pay for its activities.

(5) It shall cease to exist when it selects the person to be awarded the contract that the advisory council was appointed to select.

(C) The department of job and family services shall provide to an advisory council appointed under this section copies of proposals submitted by each person seeking the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program for which the advisory council was appointed. The department shall redact from each copy of each proposal it provides to an advisory council under this section any proprietary information included in the proposal. The person with whom the department contracts for that purpose shall be the person the advisory council selects.

Sec. 5111.111. As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.

The department of job and family services may place a lien against the property of a medical assistance recipient or recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien, the director of job and family services or a person designated by the director may sign a certificate to the effect. The county department of job and family services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described therein for

all amounts of aid which are paid or which thereafter are paid, and shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of job and family services thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

Sec. 5111.151. (A) This section applies to eligibility determinations for all cases involving medical assistance provided pursuant to this chapter, qualified medicare beneficiaries, specified low-income medicare beneficiaries, qualifying individuals-1, qualifying individuals-2, and medical assistance for covered families and children.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medical assistance benefits or the individual's spouse.

(8) "Recipient" is an individual who receives medical assistance benefits or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:

(1) A countable resource;

(2) Countable income;

(3) A countable resource and countable income;

(4) Not a countable resource or countable income.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services as an available resource to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a Medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(6) The baseline date for the look-back period for transfers of assets involving a medicaid qualifying trust shall be the date on which the

applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving medicaid qualifying trusts:

(a) If a medicaid qualifying trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a medicaid qualifying trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of the assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a medicaid qualifying trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or

recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources.

(d) The date of the transfer shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the transferred resource under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of resources after the foreclosure date shall be considered a separate transfer.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;
(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for transfers of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medical assistance. The following conditions also apply to look-back periods for transfers of assets involving self-settled trusts:

(a) If a self-settled trust is a revocable trust and a portion of the trust is distributed to someone other than the applicant or recipient for the benefit of someone other than the applicant or recipient, the distribution shall be considered an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer shall be considered to have taken place on the date on which the payment to someone other than the applicant or recipient was made.

(b) If a self-settled trust is an irrevocable trust and a portion of the trust is not distributable to the applicant or recipient, the trust shall be treated as an improper transfer of resources. The look-back period shall be sixty months from the baseline date. The transfer is considered to have been made as of the later of the date the trust was established or the date on which payment to the applicant or recipient was foreclosed. The value of these assets shall not be reduced by any payments from the trust that may be made from these unavailable assets at a later date.

(c) If a self-settled trust is an irrevocable trust and a portion or all of the trust may be disbursed to or for the benefit of the applicant or recipient, any payment that is made to another person other than the applicant or recipient shall be considered an improper transfer of resources. The look-back period shall be thirty-six months from the baseline date. The transfer shall be considered to have been made as of the date of payment to the other person.

(F) The principal or income from any of the following shall be exempt from being counted as a resource by a county department of job and family services:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper transfer of resources.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets or countable income or countable assets and income.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust

shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medical assistance. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medical assistance. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any countable income not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as

unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income.

(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

- (i) The department of mental retardation and developmental disabilities;
- (ii) A county board of mental retardation and developmental disabilities;
- (iii) The department of mental health;
- (iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2002 is two hundred fourteen thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 1339.51 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 1339.51 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as an available resource. Terms

of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource.

(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income.

Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, all of the following apply:

(1) Not later than July 1, 2004, the department shall designate a portion of the individuals for participation in the care management system.

(2) Individuals shall not be designated for participation unless they reside in a county in which individuals who receive medicaid on another basis have been designated for participation.

(3) If, pursuant to division (B)(2) of this section, the department requires or permits the individuals to obtain health care services through managed care organizations, the department shall select the managed care organizations to be used by the individuals through a request for proposals process. The department shall issue its initial request for proposals not later than December 31, 2003.

(4) Individuals shall not be required to obtain health care services through managed care organizations unless they are at least twenty-one years of age.

(B) Under the care management system, the department may do both of the following:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Subject to division (A)(4) of this section, require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this

section.

Sec. 5111.161. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled.

(B) The department of job and family services shall develop a pilot program under which chronically ill children are included among the medicaid recipients who are required to participate in the care management system established under section 5111.16 of the Revised Code. The pilot program shall be implemented not later than October 1, 2004, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2006, except that the department shall cease operation of the program before that date if either of the following is the case:

(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services;

(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars.

(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The department may extend its operation of the program into the areas surrounding the counties in which the program is operated.

(D) The purpose of the pilot program shall be to determine whether occurrences of acute illnesses and hospitalizations among chronically ill children can be prevented or reduced by establishing a medical home for the children where care is administered proactively and in a manner that is accessible, continuous, family-centered, coordinated, and compassionate. In establishing a medical home for a chronically ill child, all of the following apply:

(1) A physician shall serve as the care coordinator for the child. The care coordinator may be engaged in practice as a pediatrician certified in pediatrics by a medical specialty board of the American medical association or American osteopathic association, a pediatric subspecialist, or a provider for the bureau of children with medical handicaps within the department of health. If the physician is in a group practice, any member of the group

practice may serve as the child's care coordinator. The duties of the care coordinator may be performed by a person acting under the supervision of the care coordinator.

(2) The child may receive care from any health care practitioner appropriate to the child's needs, but the care coordinator shall direct and oversee the child's overall care.

(3) The care coordinator shall establish a relationship of mutual responsibility with the child's parents or other persons who are responsible for the child. Under this relationship, the care coordinator shall commit to developing a long-term disease prevention strategy and providing disease management and education services, while the child's parents or other persons who are responsible for the child shall commit to participate fully in implementing the child's care management plan.

(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care.

(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program.

~~Sec. 5111.17. (A) On receipt of a waiver from the United States department of health and human services of any federal requirement that would otherwise be violated, the~~ The department of job and family services may establish in some or all counties a managed care system under which designated recipients of medical assistance are required to obtain health care services from providers designated by the department.

~~(B) The department may enter into contracts with managed care organizations to authorize, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients participating in a~~ who are required or permitted to obtain health care services through managed care organizations as part of the care management

system established under ~~this~~ section 5111.16 of the Revised Code.

~~(C) For the purpose of determining the amount the department pays~~ hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization under contract with the department to provide hospital services to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the ~~department.~~

~~(D)~~(B) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.171. (A) The department of job and family services may provide financial incentive awards to managed care organizations ~~that under~~ contract with the department ~~under pursuant to section 5111.17 of the Revised Code to provide health care services to participating medical assistance recipients and~~ that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

(B) There is hereby created in the state treasury the health care compliance fund. The fund shall consist of all fines imposed on and collected from managed care organizations for failure to ~~meet~~ meet performance standards or other requirements specified in provider agreements or rules adopted by the department. All investment earnings of the fund shall be credited to the fund. Moneys credited to the fund shall be used solely for the following purposes:

(1) To reimburse managed care organizations that have paid fines for failures to meet performance standards or other requirements and that have come into compliance by meeting requirements as specified by the department;

(2) To provide financial incentive awards established pursuant to division (A) of this section and specified in contracts between managed care organizations and the department.

Sec. 5111.172. When contracting under section 5111.17 of the Revised

Code with a managed care organization that is a health insuring corporation, the department of job and family services may require the health insuring corporation to provide coverage of prescription drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval, use strategies for the management of drug utilization.

Sec. 5111.173. The department of job and family services shall appoint a temporary manager for a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department determines that the managed care organization has repeatedly failed to meet substantive requirements specified in section 1903(m) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 42 C.F.R. 438 Part I. The appointment of a temporary manager does not preclude the department from imposing other sanctions available to the department against the managed care organization.

The managed care organization shall pay all costs of having the temporary manager perform the temporary manager's duties, including all costs the temporary manager incurs in performing those duties. If the temporary manager incurs costs or liabilities on behalf of the managed care organization, the managed care organization shall pay those costs and be responsible for those liabilities.

The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code.

The appointment of a temporary manager does not cause the managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to renew the managed care organization's medicaid provider agreement or the right to initiate the sale of the managed care organization or its assets.

In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.174. The department of job and family services may disenroll some or all medicaid recipients enrolled in a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code if the department proposes to terminate or not to renew the contract and determines that the recipients' access to medically necessary

services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the director of job and family services shall adopt in accordance with Chapter 119. of the Revised Code. The request for, or conduct of, a reconsideration regarding a proposed disenrollment shall not delay the disenrollment.

In addition to the rules required to be adopted under this section, the director may adopt any other rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.175. For the purpose of determining the amount the department of job and family services pays hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, a managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code authorizing the organization to provide, or arrange for the provision of, hospital services to medicaid recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the services, payments made by the organization to the hospital for the services, utilization of hospital services by medicaid recipients enrolled in the organization, and other utilization data required by the department.

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Capital costs" means costs of ownership and nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;

(iii) Equipment;

(iv) Extensive renovations;

- (v) Transportation equipment.
- (b) Amortization and interest on land improvements and leasehold improvements;
- (c) Amortization of financing costs;
- (d) Except as provided in division (I) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.

(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(D) "Case-mix score" means the measure determined under section 5111.231 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(E) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

(1) If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

(2) If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(F) "Desk-reviewed" means that costs as reported on a cost report

submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code and preliminarily determined to be allowable costs.

(G) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in division (G)(2)(a) of this section.

(3) Costs of other direct-care resources that are specified as direct care costs in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code.

(H) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(I) "Indirect care costs" means all reasonable costs other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants,

medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, ~~consumer satisfaction survey fees paid under section 173.55 of the Revised Code~~, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in this division. Notwithstanding division (B)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(J) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(K) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medical assistance program by the director of health in accordance with Title XIX of the "Social Security Act."

(L) "Maintenance and repair expenses" means, except as provided in division (X)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(M) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a

distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX of the "Social Security Act," and is certified as a skilled nursing facility by the director in accordance with Title XVIII of the "Social Security Act."

(N) "Other protected costs" means costs for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code.

(O) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in a nursing facility or intermediate care facility for the mentally retarded.

(P) "Patient" includes "resident."

(Q) Except as provided in divisions (Q)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.24 or 5111.241 of the Revised Code, "per diem" means a facility's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.25 or 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(R) "Provider" means a person or government entity that operates a nursing facility or intermediate care facility for the mentally retarded under a provider agreement.

(S) "Provider agreement" means a contract between the department of job and family services and a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medical assistance program.

(T) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(U) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(V) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(W) "Relative of owner" means an individual who is related to an owner

of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

- (1) Spouse;
 - (2) Natural parent, child, or sibling;
 - (3) Adopted parent, child, or sibling;
 - (4) Step-parent, step-child, step-brother, or step-sister;
 - (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
 - (6) Grandparent or grandchild;
 - (7) Foster caregiver, foster child, foster brother, or foster sister.
- (X) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (X)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

Sec. 5111.21. (A) Subject to sections 5111.01, 5111.011, 5111.012, ~~and 5111.02, and 5111.211~~ of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.

In order to be eligible for medical assistance payments, a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Comply with all applicable state and federal laws and rules.

(B) A nursing facility that elects to obtain and maintain eligibility for payments under the ~~medicare~~ medicaid program ~~established by Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended may~~ shall qualify all ~~or part of the facility of the facility's~~ medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

Sec. 5111.211. (A) The department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

(4) There is a valid provider agreement for the facility.

(B) Each month, the department of job and family services shall invoice the department of mental retardation and developmental disabilities by interagency transfer voucher for the claims for which the department of mental retardation and developmental disabilities is responsible pursuant to this section.

Sec. 5111.22. A provider agreement between the department of job and family services and a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to:

(1) ~~Make~~ make payments to the nursing facility or intermediate care facility for the mentally retarded for patients eligible for services under the medical assistance program as provided in sections 5111.20 to 5111.32 of the Revised Code. No payment shall be made for the day a recipient is discharged from the facility.

(2) ~~Provide copies of rules governing the facility's participation as a provider in the medical assistance program. Whenever the director of job and family services files a proposed rule or proposed rule in revised form under division (D) of section 111.15 or division (B) of section 119.03 of the Revised Code, the department shall provide the facility with one copy of such rule. In the case of a rescission or proposed rescission of a rule, the department may provide the rule number and title instead of the rules rescinded or proposed to be rescinded.~~

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent

with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted by the director pursuant to Chapter 119. of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of the recipients or of the state.

Sec. 5111.251. (A) The department of job and family services shall pay each eligible intermediate care facility for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to 5111.32 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division (I) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted in accordance with Chapter 119. of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules adopted under this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to 5111.32 of the Revised Code is used to

reimburse the government agency.

(B) The department of job and family services shall pay to each intermediate care facility for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments to intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but

prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of mental retardation and developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were

originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be

renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of mental retardation and developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of

ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility or, regardless of whether the department gives prior approval, if the facility obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section unless the facility obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.24 of the Revised Code, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

(H) After June 30, 1980, the owner of an intermediate care facility for the mentally retarded operating under a provider agreement shall provide written notice to the department of job and family services at least forty-five days prior to entering into any contract of sale for the facility or voluntarily terminating participation in the medical assistance program. After the date on which a transaction of sale is closed, the owner shall refund to the department the amount of excess depreciation paid to the facility by the department for each year the owner has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the facility has received payment. If an intermediate care facility for the mentally retarded is sold after five or fewer years of operation under a provider agreement, the refund to the department shall be equal to the excess depreciation paid to the facility. If an intermediate care facility for the mentally retarded is sold after more than five years but less than ten years of operation under a provider agreement, the refund to the department shall equal the excess depreciation paid to the facility multiplied by twenty per cent, multiplied by the number of years less than ten that a facility was operated under a provider agreement. If an intermediate care facility for the mentally retarded is sold after ten or more years of operation

under a provider agreement, the owner shall not refund any excess depreciation to the department. For the purposes of this division, "depreciation paid to the facility" means the amount paid to the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the owner's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the facility.

A cost report shall be filed with the department within ninety days after the date on which the transaction of sale is closed or participation is voluntarily terminated for an intermediate care facility for the mentally retarded subject to this division. The report shall show the accumulated depreciation, the sales price, and other information required by the department. The department shall provide for a bank, trust company, or savings and loan association to hold in escrow the amount of the last two monthly payments to an intermediate care facility for the mentally retarded made pursuant to division (A)(1) of section 5111.22 of the Revised Code before a sale or voluntary termination of participation or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first two monthly payments made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility. If the amount the owner will be required to refund under this section is likely to be less than the amount of the two monthly payments otherwise put into escrow under this division, the department shall take one of the following actions instead of withholding the amount of the two monthly payments:

(1) In the case of an owner that owns other facilities that participate in the medical assistance program, obtain a promissory note in an amount sufficient to cover the amount likely to be refunded;

(2) In the case of all other owners, withhold the amount of the last monthly payment to the intermediate care facility for the mentally retarded or, if the owner fails, within the time required by this division, to notify the department before entering into a contract of sale for the facility, the amount of the first monthly payment made to the facility after the department learns of the contract, regardless of whether a new owner is in possession of the facility.

The department shall, within ninety days following the filing of the cost report, audit the report and issue an audit report to the owner. The

department also may audit any other cost reports for the facility that have been filed during the previous three years. In the audit report, the department shall state its findings and the amount of any money owed to the department by the intermediate care facility for the mentally retarded. The findings shall be subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code. No later than fifteen days after the owner agrees to a settlement, any funds held in escrow less any amounts due to the department shall be released to the owner and amounts due to the department shall be paid to the department. If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.

If an intermediate care facility for the mentally retarded is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination of participation. After written notice is received from an intermediate care facility for the mentally retarded that a sale or termination of participation will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.

(I) The department of job and family services shall pay each eligible proprietary intermediate care facility for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is

applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to (I) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division (J)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division (J)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules the department shall adopt in accordance with Chapter 119. of the Revised Code no later than December 31, 2000. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (J)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for

capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.34. (A) There is hereby created the nursing facility reimbursement study council consisting of the following ~~seventeen~~ eighteen members:

(1) The director of job and family services;

(2) The deputy director of the office of Ohio health plans of the department of job and family services;

(3) An employee of the governor's office;

(4) The director of health;

(5) The director of aging;

(6) Three members of the house of representatives, not more than two of whom are members of the same political party, appointed by the speaker of the house of representatives;

(7) Three members of the senate, not more than two of whom are members of the same political party, appointed by the president of the senate;

(8) One representative of medicaid recipients residing in nursing facilities, appointed by the governor;

(9) Two representatives of each of the following organizations, appointed by their respective governing bodies:

(a) The Ohio academy of nursing homes;

(b) The association of Ohio philanthropic homes and housing for the aging;

(c) The Ohio health care association.

Initial appointments of members described in divisions (A)(6), (7), and ~~(8)~~(9) of this section shall be made no later than ninety days after June 6, 2001, except that the initial appointments of the two additional members described in divisions (A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 124th general assembly shall be made not later than ninety days after ~~the effective date of this amendment~~ March 14, 2002. Initial appointment of the member described in division (A)(8) of this section shall be made not later than ninety days after the effective date of this amendment. Vacancies in any of those appointments shall be filled in the same manner as original appointments. The members described in divisions

(A)(6), (7), ~~and (8), and (9)~~ of this section shall serve at the pleasure of the official or governing body appointing the member. The members described in divisions (A)(1), (2), (3), (4), and (5) of this section shall serve for as long as they hold the position that qualifies them for membership on the council. The speaker of the house of representatives and the president of the senate jointly shall appoint the chairperson of the council. Members of the council shall serve without compensation.

(B) The council shall review, on an ongoing basis, the system established by sections 5111.20 to 5111.32 of the Revised Code for reimbursing nursing facilities under the medical assistance program. The council shall recommend any changes it determines are necessary. The council shall issue a report of its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate not later than July 30, 2004. Thereafter, the council periodically shall report its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate.

(C) The council shall meet quarterly. Its first quarterly meeting after the effective date of this amendment shall be held not later than August 1, 2003.

Sec. 5111.85. (A) As used in this section, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.

1315 or 1396n. "Medicaid waiver component" does not include a ~~managed~~ care management system established under section ~~5111.17~~ 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of services the medicaid waiver components provide;
- (3) The conditions under which the medicaid waiver components cover services;
- (4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;
- (5) The manner in which the medicaid waiver components pay for services;
- (6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

(8) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.

Sec. 5111.87. (A) As used in this section and section 5111.871 of the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services may apply to the United States secretary of health and human services for ~~one~~ both of the following:

(1) One or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded;

(2) One or more medicaid waivers that operate for three to four years each and under which home and community-based services are provided in the form of either or both of the following:

(a) Early intervention services for children under three years of age that are provided or arranged by county boards of mental retardation and developmental disabilities;

(b) Therapeutic services for children who have autism and are under six years of age at the time of enrollment. ~~Before the director applies~~

(C) No individual may receive services under an autism component of the medicaid program established under a waiver sought under division (B)(2)(b) of this section for more than three years. An individual receiving intensive therapeutic services under such an autism component is forever

ineligible to receive intensive therapeutic services, under any other component of the medicaid program.

(D) The director of mental retardation and developmental disabilities may request that the director of job and family services apply for one or more medicaid waivers under this section.

(E) Before applying for a waiver under this section, the director of job and family services shall seek, accept, and consider public comments.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of mental retardation and developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the ~~component~~ components of the medicaid program established by the department of job and family services under one or more of the medicaid waivers ~~from the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide eligible medicaid recipients with home and community-based services as an alternative to placement in an intermediate care facility for the mentally retarded sought under section 5111.87 of the Revised Code.~~ The contract shall provide for the department of mental retardation and developmental disabilities to administer the ~~component~~ components in accordance with the terms of the ~~waiver~~ waivers. The directors of job and family services and mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the ~~component~~ components.

If the department of mental retardation and developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under this any of these medicaid ~~component~~ components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section 5101.35 of the Revised Code.

The departments of mental retardation and developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under this any of these medicaid ~~component~~ components. The departments shall consider the recommendations a county board of mental retardation and developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living or residential services, as defined in section 5126.01 of the Revised Code, are to be provided under ~~this component~~ any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 or certificate under section 5123.045 or 5126.431 of the Revised Code may provide the services.

Sec. 5111.872. When the department of mental retardation and developmental disabilities allocates enrollment numbers to a county board of mental retardation and developmental disabilities for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under any of the ~~component~~ components of the medicaid program that the department administers under section 5111.871 of the Revised Code, the department shall consider all of the following:

(A) The number of individuals with mental retardation or other developmental disability who are on a waiting list the county board establishes under division (C) of section 5126.042 of the Revised Code for those services and are given priority on the waiting list pursuant to division (D) or (E) of that section;

(B) The implementation component required by division (A)(4) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

(C) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements of ~~division~~ divisions (D) and (E) of section 5126.042 of the Revised Code.

Sec. 5111.873. (A) Not later than the effective date of the first of any medicaid waivers the United States secretary of health and human services grants pursuant to a request made under section 5111.87 of the Revised Code, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide fee schedules for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the ~~component~~ components of the medicaid program that the department of mental retardation and developmental disabilities administers under section 5111.871 of the Revised Code. The rules shall provide for all of the following:

(1) The department of mental retardation and developmental disabilities arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and government entities

providing the services at the time the information is obtained;

(2) The collection of consumer-specific information through an assessment instrument the department of mental retardation and developmental disabilities shall provide to the department of job and family services;

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, methods and standards for calculating the fee schedules that do all of the following:

(a) Assure that the fees are consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules under this section, the director shall consult with the director of mental retardation and developmental disabilities, representatives of county boards of mental retardation and developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The directors of job and family services and mental retardation and developmental disabilities shall review the rules adopted under this section at times they determine to ensure that the methods and standards established by the rules for calculating the fee schedules continue to do everything that division (A)(3) of this section requires.

Sec. 5111.88. (A) As used in this section, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The department may limit the number of program participants.

To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) Be a recipient of medicaid-funded nursing facility services, at the

time of applying for the benefits;

(2) Have resided continuously in a nursing facility for not less than eighteen months prior to applying to participate in the project;

(3) Need the level of care provided by nursing facilities;

(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;

(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.

(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.

(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

(C) How providers will be paid for providing the services;

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including program oversight and quality assurance.

Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of mental health and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers.

Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of alcohol and drug addiction services and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of alcohol and drug addiction services administers.

Sec. 5111.92. (A)(1) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved, and for which federal financial participation was initially obtained, prior to January 1, 2002, or administers one or more aspects of such a component, the department of job and family services may retain or collect not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. If the department retains or collects a percentage of such federal financial participation, the percentage the department retains or collects shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(2) Except as provided in division (B) of this section, if a state agency or political subdivision administers one or more components of the medicaid program that the United States department of health and human services approved on or after January 1, 2002, or administers one or more aspects of such a component, the department of job and family services shall retain or collect not less than three and not more than ten per cent of the federal financial participation the state agency or political subdivision obtains through an approved, administrative claim regarding the component or aspect of the component. The percentage the department retains or collects

shall be specified in a contract the department enters into with the state agency or political subdivision under section 5111.91 of the Revised Code.

(B) The department of job and family services may retain or collect a percentage of federal financial participation under divisions (A)(1) and (2) of this section only to the extent permitted by federal statutes and regulations and shall not retain or collect a percentage of federal financial participation obtained pursuant to section 5126.058 of the Revised Code.

(C) All amounts the department retains or collects under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in

the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.95. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment or, after the effective date of this section, an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. "Applicant" also means an existing employee with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities after the effective date of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Waiver agency" means a person or government entity that is not certified under the medicare program and is accredited by the community health accreditation program or the joint commission on accreditation of health care organizations or a company that provides home and community-based waiver services to persons with disabilities through department of job and family services administered home and community-based waiver programs.

(4) "Home and community-based waiver services" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital. Home and community-based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan.

(B)(1) The chief administrator of a waiver agency shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may

request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under division (B)(1) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position in a waiver agency for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of job and family services in accordance with division (F) of this section and subject to division (C)(2) of this section, no waiver agency shall employ a person in a position that involves providing home and community-based waiver services to persons with disabilities if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(b) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A waiver agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment.

(b) A waiver agency that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check request under division (B) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the agency shall terminate the individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A waiver agency may charge an applicant a fee not exceeding the amount the agency pays under division (D)(1) of this section. An agency may collect a fee only if the agency notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the agency requesting the criminal records check or the administrator's representative;

(3) A court, hearing officer, or other necessary individual involved in a

case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.

(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies.

(2) This section shall not apply to a person to whom all of the following apply:

(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities.

(b) The person previously had been the subject of a criminal background check relating to that position;

(c) The person has been continuously employed in that position since that criminal background check had been conducted.

Sec. 5111.96. (A) As used in this section:

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after the effective date of this section.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "The department" means the department of job and family services or its designee.

(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an

independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities.

(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code.

(B)(1) The department shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program.

(2) Beginning on the effective date of this section, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted.

(C)(1) The department shall require the independent provider to complete a criminal records check prior to entering into a provider agreement with the independent provider and at least annually thereafter. If an independent provider for whom a criminal records check is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the department shall request the independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the independent provider. Even if an independent provider for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the department may request that the independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department shall do both of the following:

(a) Provide information to each independent provider for whom a criminal records check request is required under division (C)(1) of this section about requesting a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint

impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet and fee from the independent provider;

(b) Forward the completed form, impression sheet, and fee to the superintendent of the bureau of criminal identification and investigation.

(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider.

(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following:

(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;

(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section.

(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section.

(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the

Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The administrator at the department who is requesting the criminal records check or the administrator's representative;

(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

Sec. 5111.97. (A) The director of job and family services may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be violated in the creation and implementation of two medicaid home and community-based services programs to replace the Ohio home care program being operated pursuant to rules adopted under sections 5111.01 and 5111.02 of the Revised Code and a medicaid waiver granted prior to the effective date of this section. In the request, the director may specify the following:

(1) That one of the replacement programs will provide home and community-based services to individuals in need of nursing facility care, including individuals enrolled in the Ohio home care program;

(2) That the other replacement program will provide services to individuals in need of hospital care, including individuals enrolled in the Ohio home care program;

(3) That there will be a maximum number of individuals who may be enrolled in the replacement programs in addition to the number of individuals to be transferred from the Ohio home care program;

(4) That there will be a maximum amount the department may expend each year for each individual enrolled in the replacement programs;

(5) That there will be a maximum aggregate amount the department may expend each year for all individuals enrolled in the replacement programs;

(6) Any other requirement the director selects for the replacement programs.

(B) If the secretary grants the medicaid waivers requested, the director may create and implement the replacement programs in accordance with the provisions of the waivers granted. The department of job and family services shall administer the replacement programs.

As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program.

Sec. 5112.03. (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Recipients of the medical assistance program;

(2) Recipients of financial assistance provided under Chapter 5115. of the Revised Code;

(3) Recipients of ~~disability assistance~~ medical assistance provided under Chapter 5115. of the Revised Code;

~~(3)~~(4) Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(4)~~(5) Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:

~~(5)~~(6) Recipients of Title V of the "Social Security Act";

~~(6)~~(7) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.

Sec. 5112.08. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code establishing a methodology to pay hospitals that is sufficient to expend all money in the indigent care pool. Under the rules:

(A) The department of job and family services may classify similar hospitals into groups and allocate funds for distribution within each group.

(B) The department shall establish a method of allocating funds to hospitals, taking into consideration the relative amount of indigent care provided by each hospital or group of hospitals. The amount to be allocated shall be based on any combination of the following indicators of indigent care that the director considers appropriate:

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations;

(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and ~~disability~~ recipients of financial or medical assistance established provided under Chapter 5115. of the Revised Code;

(3) The amount of uncompensated care provided by the hospital or group of hospitals;

(4) Other factors that the director considers to be appropriate indicators of indigent care.

(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate.

(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental transfers, the department shall pay an installment under this section not later than ten working days after the earlier of that deadline or the deadline established in rules for the governmental hospital to pay an installment on its intergovernmental transfer. If the amount in the hospital care assurance program fund and the hospital care assurance match fund created under section 5112.18 of the Revised Code is insufficient to make the total distributions for which hospitals are eligible to receive in any period, the department shall reduce the amount of each distribution by the percentage by which the amount is insufficient. The department shall distribute to hospitals any amounts not distributed in the period in which they are due as soon as moneys are available in the funds.

Sec. 5112.17. (A) As used in this section:

(1) "Federal poverty guideline" means the official poverty guideline as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Service Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(2) "Third-party payer" means any private or public entity or program that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(B) Each hospital that receives funds distributed under sections 5112.01 to 5112.21 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not recipients of the medical assistance program, and whose income is at or below the federal poverty guideline.

Recipients of disability financial assistance and recipients of disability medical assistance provided under Chapter 5115. of the Revised Code qualify for services under this section. The director of job and family services shall adopt rules under section 5112.03 of the Revised Code specifying the hospital services to be provided under this section.

(C) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for eligibility under the medical assistance program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medical assistance program, in accordance with Chapter 5111. of the Revised Code and the rules adopted under that chapter, for services rendered under this section if the individual becomes a recipient of the program. Hospitals may bill individuals for services under this section if all of the following apply:

(1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty guideline are eligible for services without charge;

(b) Specifies the federal poverty guideline for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules the department adopts under section 5112.03 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(D) Each hospital shall collect and report to the department, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(E) This section applies beginning May 22, 1992, regardless of whether the department has adopted rules specifying the services to be provided. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for medically handicapped children established under section 3701.023 of the Revised Code, to pay for hospital

services in accordance with state or local law.

Sec. 5112.31. The department of job and family services shall:

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and ~~twenty-four~~ sixty-three cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, the department shall take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty of ~~one hundred dollars~~ for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers, the director shall impose a penalty of ten per cent of the amount due, ~~not to exceed twenty thousand dollars~~, on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section 5112.03 of the Revised Code.

(C) The director shall waive the penalties provided for in divisions (A) and (B) of this section for good cause shown by the hospital.

(D) All penalties imposed under this section shall be deposited into the general revenue health care administration fund created by section 5111.94 of the Revised Code.

Sec. 5115.01. (A) ~~There is hereby established~~ The director of job and family services shall establish the disability financial assistance program. Except as provided in division (D) of this section, a disability assistance recipient shall receive financial assistance. Except as provided in section 5115.11 of the Revised Code, a disability assistance recipient also shall ~~receive disability assistance medical assistance.~~

Except as provided by division (B) of this section, a person who meets ~~all of the following requirements~~ is (B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability financial assistance program, a person may be eligible for disability financial assistance only if one of the following applies:

(1) The person is ~~ineligible to participate in the Ohio works first program established under Chapter 5107. of the Revised Code and to receive supplemental security income provided pursuant to Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;~~

(2) ~~The person is at least one of the following:~~

(a) ~~Under age eighteen;~~

(b) ~~Age sixty or older;~~

(c) ~~Pregnant;~~

(d) ~~Unable~~ unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months;

(e) A resident of a residential treatment center certified as an alcohol or drug addiction program by the department of alcohol and drug addiction ~~services under section 3793.06 of the Revised Code.~~

(f) Medication dependent as determined by a physician, as defined in section 4730.01 of the Revised Code, who has certified to the county department of job and family services that the person is receiving ongoing treatment for a chronic medical condition requiring continuous prescription medication for an indefinite, long-term period of time and for whom the loss of the medication would result in a significant risk of medical emergency ~~and loss of employability lasting at least nine months.~~

(3) ~~The~~ (2) On the day before the effective date of this amendment, the person meets the eligibility requirements established in rules adopted under section 5115.05 of the Revised Code was sixty years of age or older and one of the following is the case:

(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older;

(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application.

(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of ~~the following~~:

- ~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~
- ~~(b) The time limit established by section 5107.18 of the Revised Code;~~
- ~~(c) Failure to comply with an application or verification procedure;~~
- ~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~

(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same ineligible assistance group. A person age eighteen or older is ineligible for disability assistance pursuant to division (B)(1)(a) of this section regardless of whether the person caused the assistance group to be ~~ineligible to participate in the Ohio works first program~~.

(C) The county department of job and family services that serves the county in which a person receiving disability assistance pursuant to division (A)(2)(e) of this section participates in an alcohol or drug addiction program shall designate a representative payee for purposes of receiving and distributing financial assistance provided under the disability assistance ~~program to the person~~.

(D) A person eligible for disability assistance pursuant to division ~~(A)(2)(f) of this section shall not receive financial assistance~~.

(E) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition ~~of disability assistance eligibility pursuant to this section~~.

Sec. ~~5115.04~~ 5115.02. (A) An individual is not eligible for disability financial assistance under this chapter if ~~either~~ any of the following apply:

~~(A)(1) The individual is eligible to participate in the Ohio works first~~ program established under Chapter 5107. of the Revised Code; eligible to receive supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1383, as amended; or eligible to participate in or receive assistance through another state or

federal program that provides financial assistance similar to disability financial assistance, as determined by the director of job and family services;

(2) The individual is ineligible to participate in the Ohio works first program because of any of the following:

(a) The time limit established by section 5107.18 of the Revised Code;

(b) Failure to comply with an application or verification procedure;

(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;

(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;

(e) The minor parent provisions of section 5107.24 of the Revised Code;

(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.

(3) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;

(4) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;

(5) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;

(6) The individual reside in a county home, city infirmary, jail, or public institution;

(7) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;

~~(B)(8)~~ The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.

(B)(1) As used in division (B)(2) of this section, "assistance group" has the same meaning as in section 5107.02 of the Revised Code.

(2) Ineligibility under division (A)(2)(c) or (d) of this section applies as follows:

(a) In the case of an individual who is under eighteen years of age, the individual is ineligible only if the individual caused the assistance group to

be ineligible to participate in the Ohio works first program or resides with an individual eighteen years of age or older who was a member of the same ineligible assistance group.

(b) In the case of an individual who is eighteen years of age or older, the individual is ineligible regardless of whether the individual caused the assistance group to be ineligible to participate in the Ohio works first program.

Sec. 5115.03. (A) The director of job and family services shall do both of the following:

(A) ~~Adopt~~ adopt rules in accordance with section 111.15 of the Revised Code governing the administration of disability assistance, including the administration of financial assistance and disability assistance medical assistance program. The rules shall be binding on county departments of job and family services.

(B) ~~Make investigations to determine whether disability assistance is being administered in compliance with the Revised Code and rules adopted by the director.~~ may establish or specify any or all of the following:

(1) Maximum payment amounts under the disability financial assistance program, based on state appropriations for the program;

(2) Limits on the length of time an individual may receive disability financial assistance;

(3) Limits on the total number of individuals in the state who may receive disability financial assistance;

(4) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements for disability financial assistance;

(5) Procedures for disregarding amounts of earned and unearned income for the purpose of determining eligibility for disability financial assistance and the amount of assistance to be provided;

(6) Procedures for including the income and resources, or a certain amount of the income and resources, of a member of an individual's family when determining eligibility for disability financial assistance and the amount of assistance to be provided.

(B) In establishing or specifying eligibility requirements for disability financial assistance, the director shall exclude the value of any tuition payment contract entered into under section 3334.09 of the Revised Code or any scholarship awarded under section 3334.18 of the Revised Code and the amount of payments made by the Ohio tuition trust authority under section 3334.09 of the Revised Code pursuant to the contract or scholarship. The director shall not require any individual to terminate a tuition payment contract entered into under Chapter 3334. of the Revised Code as a

condition of eligibility for disability financial assistance. The director shall consider as income any refund paid under section 3334.10 of the Revised Code.

(C) Notwithstanding section 3109.01 of the Revised Code, when a disability financial assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. In the rules adopted under this section, the director shall specify procedures for determining the amount of income to be attributed to applicants and recipients in this age category.

(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following:

(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director;

(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications.

~~Sec. 5115.02 5115.04. (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services, including making determinations of financial eligibility and initial determinations of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code, distributing financial assistance payments, reimbursing providers of medical services for services provided to disability assistance recipients, and any other function specified in the rules. The department may also require county departments to make a final determination of whether an applicant meets a condition for eligibility under division (A)(2)(a), (b), (c), (e), or (f) of section 5115.01 of the Revised Code. The department shall make the final determination of whether an~~

applicant meets a condition of eligibility under division (A)(2)(d) of section ~~5115.01 of the Revised Code.~~

(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director.

(C) If disability financial assistance payments ~~or medical services reimbursements~~ are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments ~~or reimbursements~~. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code.

Sec. 5115.05. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements the director considers necessary in the administration of the application process for disability financial assistance. The rules may provide for disregarding amounts of earned and unearned income for the purpose of determining whether an assistance group is eligible for assistance and the amount of assistance provided under this chapter. The rules also may provide that the income and resources, or a certain amount of the income and resources, of a member of an assistance group's family group will be included in determining whether the assistance group is eligible for aid and the amount of aid provided under this chapter.

~~If financial assistance under this chapter is to be paid by the auditor of state through the medium of direct deposit, the application shall be accompanied by information the auditor needs to make direct deposits.~~

~~The department of job and family services may require recipients of disability financial assistance to participate in a reapplication process two months after initial approval for assistance has been determined and at such other times as specified in the department requires rules.~~

~~If a recipient of disability assistance, or the spouse of or member of the assistance group of a recipient, becomes possessed of resources or income in excess of the amount allowed under rules adopted under this section, or if~~

other changes occur that affect the person's eligibility or need for assistance, the recipient shall notify the department or county department of job and family services within the time limits specified in the rules. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.15 of the Revised Code.

~~Each applicant for or recipient of disability assistance shall make~~ reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, as a means of preventing or reducing the provision of disability assistance at public expense. The department or county department may provide assistance to the applicant or recipient in securing other forms of financial or medical assistance.

~~Notwithstanding section 3109.01 of the Revised Code, when a disability~~ assistance applicant or recipient who is at least eighteen but under twenty-two years of age resides with the applicant's or recipient's parents, the income of the parents shall be taken into account in determining the applicant's or recipient's financial eligibility. The director shall adopt rules for determining the amount of income to be attributed to the assistance ~~group of applicants in this age category.~~

(B) Any person who applies for disability financial assistance ~~under this section~~ shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. ~~5115.07~~ 5115.06. ~~Financial assistance~~ Assistance under the disability financial assistance program may be given by warrant, direct deposit, or, if provided by the director of job and family services pursuant to section 5101.33 of the Revised Code, by electronic benefit transfer. It shall be inalienable whether by way of assignment, charge, or otherwise, and is exempt from attachment, garnishment, or other like process. ~~Any~~

Any direct deposit shall be made to a financial institution and account designated by the recipient. ~~The~~ If disability financial assistance is to be paid by the auditor of state through direct deposit, the application for assistance shall be accompanied by information the auditor needs to make direct deposits.

The director of job and family services may adopt rules for designation of financial institutions and accounts. ~~No~~

No financial institution shall impose any charge for direct deposit of disability ~~assistance~~ financial assistance payments that it does not charge all customers for similar services.

The department of job and family services shall establish financial ~~assistance payment amounts based on state appropriations.~~

Disability assistance may be given to persons living in their own homes or other suitable quarters, but shall not be given to persons who reside in a county home, city infirmary, jail, or public institution. Disability assistance shall not be given to an unemancipated child unless the child lives with the child's parents, guardians, or other persons standing in place of parents. For the purpose of this section, a child is emancipated if the child is married, ~~serving in the armed forces, or has been emancipated by court order.~~

No person shall be eligible for disability assistance if, for the purpose of avoiding consideration of property in determinations of the person's eligibility for disability assistance or a greater amount of assistance, the person has transferred property during the two years preceding application ~~for or most recent redetermination of eligibility for disability assistance.~~

Sec. ~~5115.13~~ 5115.07. The acceptance of ~~disability~~ financial assistance under ~~this chapter~~ the disability financial assistance program constitutes an assignment to the department of job and family services of any rights an individual receiving ~~disability~~ the assistance has to financial support from any other person, ~~excluding medical support assigned pursuant to section 5101.59 of the Revised Code.~~ The rights to support assigned to the department pursuant to this section constitute an obligation of the person responsible for providing the support to the state for the amount of disability financial assistance payments to the recipient or recipients whose needs are included in determining the amount of ~~disability~~ assistance received. Support payments assigned to the state pursuant to this section shall be collected by the county department of job and family services and reimbursements for disability financial assistance payments shall be credited to the state treasury.

Sec. 5115.10. (A) The director of job and family services shall establish a disability assistance medical assistance program shall consist of a system of managed primary care. ~~Until July 1, 1992, the program shall also include limited hospital services, except that if prior to that date hospitals are required by section 5112.17 of the Revised Code to provide medical services without charge to persons specified in that section, the program shall cease to include hospital services at the time the requirement of section 5112.17 of the Revised Code takes effect.~~

The department of job and family services may require disability assistance medical assistance recipients to enroll in health insuring corporations or other managed care programs, or may limit the number or ~~type of health care providers from which a recipient may receive services.~~

The director of job and family services shall adopt rules governing the disability assistance medical assistance program established under this division. ~~The rules shall specify all of the following:~~

(1) Services that will be provided under the system of managed primary care;

(2) Hospital services that will be provided during the period that ~~hospital services are provided under the program;~~

(3) The maximum authorized amount, scope, duration, or limit of ~~payment for services.~~

(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider ~~enter into a provider agreement with the state department.~~

(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the ~~time the care was rendered, if all of the following apply:~~

(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division

~~(D) of this section are met, while in the hospital;~~

(2) The person met all eligibility requirements for disability assistance ~~at the time the care was rendered;~~

(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted ~~by the director of job and family services.~~

(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face-to-face interview shall be conducted with the applicant while the applicant is in the hospital to determine whether the applicant is eligible for the assistance. If the hospital agrees to reimburse the county department of job and family services for all actual costs incurred by the department in conducting the interview, the interview shall be conducted by an employee of the county department. If, at the request of the hospital, the county department designates an employee of the hospital to conduct the interview,

~~the interview shall be conducted by the hospital employee.~~

~~(E) The department of job and family services may assume responsibility for peer review of expenditures for disability assistance medical assistance~~

(B) Subject to all other eligibility requirements established by this chapter and the rules adopted under it for the disability medical assistance program, a person may be eligible for disability medical assistance only if the person is medication dependent, as determined by the department of job and family services.

(C) The director shall adopt rules under section 111.15 of the Revised Code for purposes of implementing division (B) of this section. The rules may specify or establish any or all of the following:

(1) Standards for determining whether a person is medication dependent, including standards under which a person may qualify as being medication dependent only if it is determined that both of the following are the case:

(a) The person is receiving ongoing treatment for a chronic medical condition that requires continuous prescription medication for an indefinite, long-term period of time;

(b) Loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.

(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent.

~~Sec. 5115.11. If a member of an assistance group receiving disability assistance under this chapter~~ An individual who qualifies for the medical assistance program established under Chapter 5111. of the Revised Code, ~~the member~~ shall receive medical assistance through that program rather than through the disability ~~assistance~~ medical assistance program.

An individual is ineligible for disability medical assistance if, for the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability medical assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability medical assistance.

Sec. 5115.12. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the disability medical assistance program. The rules may establish or specify any or all of the following:

(1) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements;

(2) Health services to be included in the program;

(3) The maximum authorized amount, scope, duration, or limit of payment for services;

(4) Limits on the length of time an individual may receive disability medical assistance;

(5) Limits on the total number of individuals in the state who may receive disability medical assistance.

(B) For purposes of limiting the cost of the disability medical assistance program, the director may do either of the following:

(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements; the maximum authorized amount, scope, duration, or limit of payment for services included in the program; or any other requirement or standard established or specified by rules adopted under division (A) of this section or under section 5115.10 of the Revised Code;

(2) Suspend acceptance of applications for disability medical assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability medical assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications.

Sec. 5115.13. (A) The department of job and family services shall supervise and administer the disability medical program, except as follows:

(1) The department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services.

(2) The director may contract with any private or public entity in this state to perform any administrative function or to administer any or all of the program.

(B) If the department requires county departments to perform administrative functions, the director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the

rules.

If the director contracts with a private or public entity to perform administrative functions or to administer any or all of the program, the director may either adopt rules in accordance with section 111.15 of the Revised Code or include provisions in the contract governing the performance of the functions by the private or public entity. Entities under contract shall perform the functions in accordance with the requirements established by the director.

(C) Whenever division (A)(1) or (2) of this section is implemented, the director shall conduct investigations to determine whether disability medical assistance is being administered in compliance with the Revised Code and rules adopted by the director or in accordance with the terms of the contract.

Sec. 5115.14. (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and other requirements the director considers necessary in the administration of the application process for disability medical assistance.

(B) Any person who applies for disability medical assistance shall receive a voter registration application under section 3503.10 of the Revised Code.

Sec. 5115.20. (A) The department of job and family services shall establish a disability advocacy program and each county department of job and family services shall establish a disability advocacy program unit or join with other county departments of job and family services to establish a joint county disability advocacy program unit. Through the program the department and county departments shall cooperate in efforts to assist applicants for and recipients of assistance under this chapter the disability financial assistance program and the disability medical assistance program, who might be eligible for supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those benefits. The

As part of their disability advocacy programs, the state department and county departments may enter into contracts for the services to applicants for and recipients of assistance under this chapter who might be eligible for supplemental security income benefits with of persons and governmental government entities that in the judgment of the department or county department have demonstrated expertise in representing persons seeking supplemental security income benefits. Each contract shall require the person or entity with which a department contracts to assess each person referred to it by the department to determine whether the person appears to

be eligible for supplemental security income benefits, and, if the person appears to be eligible, assist the person in applying and represent the person in any proceeding of the social security administration, including any appeal or reconsideration of a denial of benefits. The department or county department shall provide to the person or entity with which it contracts all records in its possession relevant to the application for supplemental security income benefits. The department shall require a county department with relevant records to submit them to the person or entity.

(B) Each applicant for or recipient of disability financial assistance or disability medical assistance ~~under this chapter~~ who, in the judgment of the department or a county department might be eligible for supplemental security benefits, ~~must~~ shall, as a condition of eligibility for assistance, apply for such benefits if directed to do so by the department or county department.

(C) ~~Each~~ With regard to applicants for and recipients of disability financial assistance or disability medical assistance, each county department of job and family services shall do all of the following:

(1) Identify applicants ~~for and recipients of assistance under this chapter~~ who might be eligible for supplemental security income benefits;

(2) Assist applicants ~~for and recipients of assistance under this chapter~~ in securing documentation of disabling conditions or refer them for such assistance to a person or government ~~agency~~ entity with which the department or county department has contracted under division (A) of this section;

(3) Inform applicants ~~for and recipients of assistance under this chapter~~ of available sources of representation, which may include a person or government entity with which the department or county department has contracted under division (A) of this section, and of their right to represent themselves in reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits. The county department may require the applicants and recipients, as a condition of eligibility for assistance, to pursue reconsiderations and appeals of social security administration decisions that deny them supplemental security income benefits, and shall assist applicants and recipients as necessary to obtain such benefits or refer them to a person or government ~~agency~~ entity with which the department or county department has contracted under division (A) of this section.

(4) Require applicants ~~for and recipients of assistance under this chapter~~ who, in the judgment of the county department, are or may be aged, blind, or disabled, to apply for medical assistance under Chapter 5111. of the

Revised Code, make determinations when appropriate as to eligibility for medical assistance, and refer their applications when necessary to the disability determination unit established in accordance with division (F) of this section for expedited review;

(5) Require each applicant ~~for and each recipient of assistance under this chapter~~ who in the judgment of the department or the county department might be eligible for supplemental security income benefits, as a condition of eligibility for disability financial assistance or disability medical assistance under this chapter, to execute a written authorization for the secretary of health and human services to withhold benefits due that individual and pay to the director of job and family services or the director's designee an amount sufficient to reimburse the state and county shares of interim assistance furnished to the individual. For the purposes of division (C)(5) of this section, "benefits" and "interim assistance" have the meanings given in Title XVI of the "Social Security Act."

(D) The director of job and family services shall adopt rules in accordance with ~~Chapter 119. section 111.15~~ of the Revised Code for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance or disability medical assistance under this chapter in the county;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have

been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.23 of the Revised Code.

(B) As a condition of eligibility for disability financial assistance or disability medical assistance, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide assistance to individuals with disabilities. The state or county department of job and family services may provide assistance to the applicant or recipient in securing other forms of financial assistance.

~~Sec. 5115.15~~ 5115.23. As used in this section, "erroneous payments" means disability financial assistance payments, ~~including or~~ disability ~~assistance~~ medical assistance payments, made to persons who are not entitled to receive them, including payments made as a result of misrepresentation or fraud, and payments made due to an error by the recipient or by the county department of job and family services that made

the payment.

The department of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code specifying the circumstances under which action is to be taken under this section to recover erroneous payments. The department, or a county department of job and family services at the request of the department, shall take action to recover erroneous payments in the circumstances specified in the rules. The department or county department may institute a civil action to recover erroneous payments.

Whenever disability financial assistance or disability medical assistance has been furnished to a recipient for whose support another person is responsible, the other person shall, in addition to the liability otherwise imposed, as a consequence of failure to support the recipient, be liable for all ~~disability~~ assistance furnished the recipient. The value of the assistance so furnished may be recovered in a civil action brought by the county department of job and family services.

Each county department of job and family services shall retain fifty per cent of the erroneous payments it recovers under this section. The department of job and family services shall receive the remaining fifty per cent.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at

least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve

compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

(D) Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;

(E) Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

(F) Provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

(G) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

(H) Develop and operate a community mental health information system.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised

Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division (H)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. The department shall not collect any information for the purpose of identifying by name any person who receives a service through a board of alcohol, drug addiction, and mental health services, except as required by state or federal law to validate appropriate reimbursement. For the purposes of division (H)(1) of this section, the department shall use an identification system that is consistent with applicable nationally recognized standards.

(I) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by

the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire, the director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A board of alcohol, drug addiction, and mental health services may not contract with a community mental health agency under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health services included in the board's community mental health plan unless the services are certified by the director of mental health under this section.

A community mental health agency that seeks the director's certification of its community mental health services shall submit an application to the director. On receipt of the application, the director may visit and shall evaluate the agency to determine whether its services satisfy the standards established by rules adopted under division (C) of this section. The director shall make the evaluation, and, if the director visits the agency, shall make the visit, in cooperation with the board of alcohol, drug addiction, and mental health services with which the agency seeks to contract.

If the director determines that a community mental health agency's services satisfy the standards, the director shall certify the services.

If the director determines that a community mental health agency's services do not satisfy the standards, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and offer technical assistance to the board of alcohol, drug addiction, and mental health services so that the board may assist the agency in satisfying the standards. The director shall give the agency a reasonable time within which to demonstrate that its services satisfy the standards or to bring the services into compliance with the standards. If the director concludes that the services continue to fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

(B) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the

certification review required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
- (b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;
- (c) Seclusion;
- (d) Restraint;
- (e) Development of written policies addressing the rights of clients, including all of the following:
 - (i) The right to a copy of the written policies addressing client rights;
 - (ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;
 - (iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;
 - (iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.

(2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;

(3) Establish the process for certification of community mental health services;

(4) Set the amount of certification review fees based on a portion of the cost of performing the review;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.

(D) The rules adopted under division (C)(1) of this section to establish certification standards for assertive community treatment and intensive home-based mental health services shall be adopted not later than July 1, 2004.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of mental retardation and developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

(G) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(H) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under ~~a the medicaid component~~ components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(I) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(J) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(K) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(L) "Managing officer" means a person who is appointed by the director of mental retardation and developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(M) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(N) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(O) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(P) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(Q) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(R) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(S) "Developmentally disabled person" means a person with a developmental disability.

(T) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(U) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former

Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of mental retardation and developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(V)(1) "Resident" means, subject to division (R)(2) of this section, a

person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(W) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(X) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(Y) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Z) "Court" means the probate division of the court of common pleas.

Sec. 5123.051. (A) If the department of mental retardation and developmental disabilities determines pursuant to an audit conducted under section 5123.05 of the Revised Code or a reconciliation conducted under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code that money is owed the state by a provider of a service or program, the department may enter into a payment agreement with the provider. The agreement shall include the following:

(1) A schedule of installment payments whereby the money owed the state is to be paid in full within a period not to exceed one year;

(2) A provision that the provider may pay the entire balance owed at any time during the term of the agreement;

(3) A provision that if any installment is not paid in full within forty-five days after it is due, the entire balance owed is immediately due and payable;

(4) Any other terms and conditions that are agreed to by the department and the provider.

(B) The department may include a provision in a payment agreement that requires the provider to pay interest on the money owed the state. The department, in its discretion, shall determine whether to require the payment

of interest and, if it so requires, the rate of interest. Neither the obligation to pay interest nor the rate of interest is subject to negotiation between the department and the provider.

(C) If the provider fails to pay any installment in full within forty-five days after its due date, the department shall certify the entire balance owed to the attorney general for collection under section 131.02 of the Revised Code. The department may withhold funds from payments made to a provider under section 5123.18 or ~~5111.252~~ 5123.199 of the Revised Code to satisfy a judgment secured by the attorney general.

(D) The purchase of service fund is hereby created. Money credited to the fund shall be used solely for purposes of section 5123.05 of the Revised Code.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194, 5123.196, 5123.198, 5123.1910, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Supported living" has the same meaning as in section 5126.01 of the Revised Code.

(5) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was

issued under this section.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) ~~The Subject to section 5123.196 of the Revised Code,~~ the director of mental retardation and developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to

a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of such proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also notify each affected resident, the resident's guardian if the resident is an adult for whom a guardian has been appointed, the resident's parent or guardian if the resident is a minor, and the county board of mental retardation and developmental disabilities.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in

compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are

agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the close of the hearing.

(e) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(f) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(g) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under

this section.

(H) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section and except as provided in section 5123.1910 of the Revised Code, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license.

(J) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter

119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of such notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(K) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(L) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(M) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the clerk of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(P) This section does not prohibit a political subdivision from applying

to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(Q) Divisions (N) and (O) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(R)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(S) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of such rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986.

(T) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.196. (A) Except as provided in divisions (E) and (F) of this section, the director of mental retardation and developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds that cease to be residential facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered in accordance with section 5123.19 of the Revised Code and after the issuance of an adjudication order pursuant to Chapter 119. of the Revised Code;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility bed if the director determines that the bed is needed to provide services to an individual with mental retardation or a developmental disability who resided in the residential facility in which the bed was located.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) If required by section 5123.1910 of the Revised Code to issue a license under section 5123.19 of the Revised Code, the director shall issue the license regardless of whether issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(F) The director may issue an interim license under division (R) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted

under division (G)(11) of that section, a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

Sec. 5123.198. (A) As used in this section, "date of the commitment" means the date that an individual specified in division (B) of this section begins to reside in a state-operated intermediate care facility for the mentally retarded after being committed to the facility pursuant to sections 5123.71 to 5123.76 of the Revised Code.

(B) Except as provided in division (C) of this section, whenever a resident of a residential facility is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of mental retardation and developmental disabilities, pursuant to an adjudication order issued in accordance with Chapter 119. of the Revised Code, shall reduce by one the number of residents for which the facility in which the resident resided is licensed.

(C) The department shall not reduce under division (B) of this section the number of residents for which a residential facility is licensed if any of the following are the case:

(1) The resident of the residential facility who is committed to a state-operated intermediate care facility for the mentally retarded resided in the residential facility because of the closure, on or after the effective date of this section, of another state-operated intermediate care facility for the mentally retarded;

(2) The residential facility admits within ninety days of the date of the commitment an individual who resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(3) The department fails to do either of the following within ninety days of the date of the commitment:

(a) Identify an individual to whom all of the following applies:

(i) Resides on the date of the commitment in a state-operated intermediate care facility for the mentally retarded or another residential facility;

(ii) Has indicated to the department an interest in relocating to the residential facility or has a parent or guardian who has indicated to the department an interest for the individual to relocate to the residential facility;

(iii) The department determines the individual has needs that the residential facility can meet.

(b) Provide the residential facility with information about the individual identified under division (C)(2)(a) of this section that the residential facility needs in order to determine whether the facility can meet the individual's needs.

(4) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and except as provided in division (D) of this section, the residential facility does all of the following not later than ninety days after the date of the commitment:

(a) Evaluates the information provided by the department;

(b) Assesses the identified individual's needs;

(c) Determines that the residential facility cannot meet the identified individual's needs.

(5) If the department completes the actions specified in divisions (C)(3)(a) and (b) of this section not later than ninety days after the date of the commitment and the residential facility determines that the residential facility can meet the identified individual's needs, the individual, or a parent or guardian of the individual, refuses placement in the residential facility.

(D) The department may reduce under division (B) of this section the number of residents for which a residential facility is licensed even though the residential facility completes the actions specified in division (C)(4) of this section not later than ninety days after the date of the commitment if all of the following are the case:

(1) The department disagrees with the residential facility's determination that the residential facility cannot meet the identified individual's needs.

(2) The department issues a written decision pursuant to the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(9) of section 5123.19 of the Revised Code that the residential facility should admit the identified individual.

(3) After the department issues the written decision specified in division (D)(2) of this section, the residential facility refuses to admit the identified individual.

(E) A residential facility that admits, refuses to admit, transfers, or discharges a resident under this section shall comply with the uniform procedures for admissions, transfers, and discharges established by rules adopted under division (G)(9) of section 5123.19 of the Revised Code.

(F) The department of mental retardation and developmental disabilities may notify the department of job and family services of any reduction under

this section in the number of residents for which a residential facility that is an intermediate care facility for the mentally retarded is licensed. On receiving the notice, the department of job and family services may transfer to the department of mental retardation and developmental disabilities the savings in the nonfederal share of medicaid expenditures for each fiscal year after the year of the commitment to be used for costs of the resident's care in the state-operated intermediate care facility for the mentally retarded. In determining the amount saved, the department of job and family services shall consider medicaid payments for the remaining residents of the facility in which the resident resided.

Sec. ~~5111.252~~ 5123.199. (A) As used in this section:

(1) "Contractor" means a person or government agency that has entered into a contract with the department of mental retardation and developmental disabilities under this section.

(2) "Government agency" and "residential services" have the same meanings as in section 5123.18 of the Revised Code.

(3) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(4) "Respite care services" has the same meaning as in section 5123.171 of the Revised Code.

(B) The department of mental retardation and developmental disabilities may enter into a contract with a person or government agency to do any of the following:

(1) Provide residential services in an intermediate care facility for the mentally retarded to an individual who meets the criteria for admission to such a facility but is not eligible for assistance under ~~this chapter~~ Chapter 5111. of the Revised Code due to unliquidated assets subject to final probate action;

(2) Provide respite care services in an intermediate care facility for the mentally retarded;

(3) Provide residential services in a facility for which the person or government agency has applied for, but has not received, certification and payment as an intermediate care facility for the mentally retarded if the person or government agency is making a good faith effort to bring the facility into compliance with requirements for certification and payment as an intermediate care facility for the mentally retarded. In assigning payment amounts to such contracts, the department shall take into account costs incurred in attempting to meet certification requirements.

(4) Reimburse an intermediate care facility for the mentally retarded for costs not otherwise reimbursed under ~~this chapter~~ Chapter 5111. of the

Revised Code for clothing for individuals who are mentally retarded or developmentally disabled. Reimbursement under such contracts shall not exceed a maximum amount per individual per year specified in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.

(C) The amount paid to a contractor under divisions (B)(1) to (3) of this section shall not exceed the reimbursement that would be made under ~~this chapter~~ Chapter 5111. of the Revised Code by the department of job and family services for the same goods and services.

(D) The department of mental retardation and developmental disabilities shall adopt rules as necessary to implement this section, including rules establishing standards and procedures for the submission of cost reports by contractors and the department's conduct of audits and reconciliations regarding the contracts. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5123.1910. (A) The director of mental retardation and developmental disabilities shall issue one or more residential facility licenses under section 5123.19 of the Revised Code to an applicant without requiring the applicant to have plans submitted, reviewed, or approved under section 5123.042 of the Revised Code for the residential facility if all of the following requirements are met:

(1) The applicant satisfies the requirements for the license established by section 5123.19 of the Revised Code and rules adopted under that section, other than any rule that requires an applicant for a residential facility license to have plans submitted, reviewed, or approved under section 5123.042 of the Revised Code for the residential facility.

(2) The applicant operates at least one residential facility licensed under section 5123.19 of the Revised Code on the effective date of this section.

(3) The applicant provides services to individuals with mental retardation or a developmental disability who have a chronic, medically complex, or technology-dependent condition that requires special supervision or care, the majority of whom received habilitation services from the applicant before attaining eighteen years of age.

(4) The applicant has created directly or through a corporate affiliate a research center that has the mission of funding, promoting, and carrying on scientific research in the public interest related to individuals with mental retardation or a developmental disability for the purpose of improving the lives of such individuals.

(5) If the applicant seeks two or more residential facility licenses, the residential facilities for which a license is sought after the effective date of

this section are located on the same or adjoining property sites.

(6) The residential facilities for which the applicant seeks licensure have not more than eight beds each and forty-eight beds total.

(7) The applicant, one or more of the applicant's corporate affiliates, or both employ or contract for, on a full-time basis, at least one licensed physician who is certified by the American board of pediatrics or would be eligible for certification from that board if the physician passed an examination necessary to obtain certification from that board.

(8) The applicant, one or more of the applicant's corporate affiliates, or both have educational facilities suitable for the instruction of individuals under eighteen years of age with mental retardation or a developmental disability who have a medically complex or technology-dependent condition.

(9) The applicant has a policy for giving individuals with mental retardation or a developmental disability who meet all of the following conditions priority over all others in admissions to one of the residential facilities licensed under section 5123.19 of the Revised Code that the applicant operates on the effective date of this section:

(a) Are under eighteen years of age;

(b) Have a chronic, medically complex, or technology-dependent condition that requires special supervision or care;

(c) Are eligible for medicaid;

(d) Reside in a nursing home, as defined in section 3721.01 of the Revised Code, or a hospital, as defined in section 3727.01, prior to being admitted to the residential facility.

(B) The director shall issue one or more residential facility licenses under section 5123.19 of the Revised Code to an applicant who meets all of the requirements of this section regardless of whether the requirements for approval of a plan for a proposed residential facility established by rules adopted under section 5123.042 of the Revised Code are met.

Sec. 5123.38. (A) Except as provided in division (B) and (C) of this section, if an individual receiving supported living or home and community-based services, as defined in section 5126.01 of the Revised Code, funded by a county board of mental retardation and developmental disabilities is committed to a state-operated intermediate care facility for the mentally retarded pursuant to sections 5123.71 to 5123.76 of the Revised Code, the department of mental retardation and developmental disabilities shall use the funds otherwise allocated to the county board as the nonfederal share of medicaid expenditures for the individual's care in the state-operated facility.

(B) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving supported services, commences funding of supported living for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

(C) Division (A) of this section does not apply if the county board, not later than ninety days after the date of the commitment of a person receiving home and community-based services, commences funding of home and community-based services for an individual who resides in a state-operated intermediate care facility for the mentally retarded on the date of the commitment or another eligible individual designated by the department.

Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division

(L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.

(B) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service. If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the

person's case, such involvement shall cease.

(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.

The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.

(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.

(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.

(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.

All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.

(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(5) The administrator of the legal rights service shall ~~be appointed for a five-year term, subject to removal for mental or physical incapacity to~~

~~perform the duties of the office, conviction of violation of any law relating to the administrator's powers and duties, or other good cause shown~~ serve at the pleasure of the commission.

The administrator shall be a person who has had special training and experience in the type of work with which the legal rights service is charged. If the administrator is not an attorney, the administrator shall seek legal counsel when appropriate. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.

(E) The legal rights service shall be completely independent of the department of mental health and the department of mental retardation and developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall also be independent of the office of the attorney general. The administrator of the legal rights service, staff, and attorneys designated by the administrator to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to the following:

(1) During normal business hours and at other reasonable times, all records relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the legal rights service, including those who may be represented pursuant to division (L) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; community residential facilities; boards of alcohol, drug addiction, and mental health services; county boards of mental retardation and developmental disabilities; contract agencies of those boards; and any other entity providing services to persons who may be represented by the service pursuant to division (L) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the service pursuant to division (L) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

(F) The administrator of the legal rights service shall do the following:

(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;

(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;

(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;

(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service;. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.

(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;

(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of mental retardation and developmental disabilities, and make the report available to the public;

(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.

(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.

(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.

(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the

following have first occurred:

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;

(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.

(4) ~~Relationships~~ Subject to division (G)(5) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be confidential, as if between attorney and client.

(5) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties.

(I) The legal rights service may conduct public hearings.

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.

(L) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section, the legal rights service and its ombudsperson section may provide advocacy or ombudsperson services to those other individuals and exercise any other authority granted by this section or sections 5123.601 to 5123.604 of the Revised Code on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the legal rights service.

Sec. 5123.801. If neither a discharged resident, nor a resident granted trial visit, nor the persons requesting the resident's trial visit or discharge are financially able to bear the expense of the resident's trial visit or discharge, the managing officer of an institution under the control of the department of mental retardation and developmental disabilities may then provide actual traveling and escort expenses to the township of which the resident resided at the time of institutionalization. The amount payable shall be charged to the current expense fund of the institution.

The expense of the return of a resident on trial visit from an institution, if it cannot be paid by the responsible relatives, shall be borne by the county of institutionalization.

~~The managing officer of the institution shall take all proper measures for the apprehension of an escaped resident. The expense of the return of an escaped resident shall be borne by the institution where the resident is institutionalized.~~

The managing officer of the institution shall provide sufficient and proper clothing for traveling if neither the resident nor the persons requesting the resident's trial visit or discharge are financially able to provide that clothing.

Sec. 5123.851. When a resident institutionalized pursuant to this chapter is discharged from the institution, the managing officer of the institution may provide the resident with all personal items that were purchased in implementing the resident's habilitation plan established pursuant to section 5123.85 of the Revised Code. The personal items may be provided to the resident, regardless of the source of the funds that were used to purchase the items.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the

director of mental retardation and developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;

(d) Sheltered employment;

(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;

(f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(D) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of

section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(E) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(F)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(G) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(H) "Habilitation" means the process by which the staff of the facility or

agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

(I) "Habilitation center services" means services provided by a habilitation center certified by the department of mental retardation and developmental disabilities under section 5123.041 of the Revised Code and covered by the medicaid program pursuant to rules adopted under section 5111.041 of the Revised Code.

(J) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under a the medicaid component components the department of mental retardation and developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(L) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(M) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(N) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as described in section 5126.14 of the Revised Code.

(O) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(P) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the

Revised Code.

(Q)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

(R) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

(S)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of life-long or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.042. (A) As used in this section:

(1) ~~"Emergency"~~, "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations:

~~(a)~~(1) Loss of present residence for any reason, including legal action;

~~(b)~~(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)~~(3) Abuse, neglect, or exploitation of the individual;

~~(d)~~(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)~~(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.~~

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists

according to an individual's emergency status and shall establish priorities in accordance with ~~division~~ divisions (D) and (E) of this section.

The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status.

In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their intention to request in the future a service they are not currently receiving. The purpose of the registry is to enable the board to document requests and to plan appropriately. The board may not place an individual on the registry who meets the conditions for receipt of services on an emergency basis.

(C) A county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:

- (1) Early childhood services;
- (2) Educational programs for preschool and school age children;
- (3) Adult services;
- (4) Service and support administration;
- (5) Residential services and supported living;
- (6) Transportation services;
- (7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;
- (8) Family support services provided under section 5126.11 of the Revised Code.

(D) Except as provided in division ~~(F)~~(G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:

- (1) For the purpose of obtaining additional federal medicaid funds for home and community-based services, medicaid case management services,

and habilitation center services, do both of the following:

(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:

- (i) Is twenty-two years of age or older;
- (ii) Receives supported living or family support services.

(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:

- (i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;
- (ii) Receives adult services from the county board.

(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:

(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;

(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:

(i) Severe behavior problems for which a behavior support plan is needed;

(ii) An emotional disorder for which anti-psychotic medication is needed;

(iii) A medical condition that leaves the individual dependent on life-support medical technology;

(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;

(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.

(c) Is twenty-two years of age or older, does not receive residential

services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis.

(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this section of the individuals identified by the department and the individuals' assessed needs.

(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community-based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community-based services, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria.

(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division (D)(1) or (2) or (E) of this section, a county board may use, until December 31, ~~2003~~ 2005, criteria specified in rules adopted under division ~~(J)~~(K)(2) of this section in determining the order in which the individuals with priority will be offered the services. Otherwise, the county board shall offer the home and community-based services to such individuals in the order they are placed on the waiting list.

~~(F)~~(G)(1) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status.

(2) No more than four hundred individuals in the state may receive priority for services during the ~~2002~~ 2004 and ~~2003~~ 2005 biennium pursuant to division (D)(2)(b) of this section.

(3) No more than a total of seventy-five individuals in the state may receive priority for services during state fiscal years 2002 and 2003 pursuant to division (D)(3) of this section.

~~(G)~~(4) No more than forty individuals in the state may receive priority for services pursuant to division (E) of this section for each year that priority category is in effect as specified in rules adopted under division (K) of this section.

(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division ~~(J)~~(K) of this section.

Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.

At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.

When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.

~~(H)~~(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community-based

services provided through ~~the~~ a medicaid component that the department of mental retardation and developmental disabilities administers under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.

~~(H)~~(J) Not later than the fifteenth day of March of each even-numbered year, each county board shall prepare and submit to the director of mental retardation and developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.

~~(J)~~(K)(1) The department of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated.

(2) As part of the rules adopted under this division, the department shall adopt, ~~not later than December 31, 2001,~~ rules establishing criteria a county board may use under division ~~(E)~~(F) of this section in determining the order in which individuals with priority for home and community-based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services. The rules adopted under division ~~(J)~~(K)(2) of this section shall cease to have effect December 31, ~~2003~~ 2005.

~~(K)~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

(a) The number of years, which shall not exceed five, that the priority category will be in effect;

(b) The date that the priority category is to go into effect.

(L) The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services,

programs, or supports.

Sec. 5126.058. (A) The director of job and family services shall seek federal financial participation for the administrative costs for the following that each county board of mental retardation and developmental disabilities incurs pursuant to its medicaid local administrative authority under section 5126.055 of the Revised Code and claims in accordance with rules adopted under this section:

- (1) Home and community-based services;
- (2) Habilitation center services;
- (3) Service and support administration provided in conjunction with any of the services listed in divisions (A)(1) and (2) of this section.

(B) The administrative costs for which the director shall seek federal financial participation under this section shall include all of the following:

- (1) Business management;
- (2) Contract management;
- (3) General administration;
- (4) Personnel management.

(C) Except as provided in division (D) of this section, federal financial participation obtained pursuant to a claim made under this section shall be paid to the county board that makes the claim.

(D) The department of mental retardation and development disabilities shall collect one per cent of the federal financial participation obtained pursuant to each claim made under this section. The amount the department collects under this division shall be deposited into the ODMR/DD administrative and oversight fund created under section 5123.0412 of the Revised Code.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the implementation of this section. The director shall adopt the rules in consultation with the director of mental retardation and developmental disabilities. The rules shall be consistent with federal regulations governing the medicaid program and shall comply with all of the following:

(1) A county board may not claim more than fifteen per cent of its administrative costs for home and community-based services and habilitation center services.

(2) A county board may not claim more than fifty per cent of its administrative costs for service and support administration provided in conjunction with any of the services listed in division (A)(1) or (2) of this section.

(3) A county board shall verify the administrative costs for which it

seeks federal financial participation in accordance with a time study or actual billing provided for by the rules.

(4) A county board may make a claim for administrative costs incurred before, on, or after the effective date of this section.

Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

(B) Subject to rules adopted by the director of mental retardation and developmental disabilities, and subject to the availability of money from state and federal sources, the county board of mental retardation and developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of mental retardation and developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the

family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of mental retardation and developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:

(1) A payment schedule adjusted for income;

(2) A formula for distributing to county boards the money appropriated for family support services;

(3) Standards for supervision, training, and quality control in the provision of respite care services;

(4) Eligibility standards and procedures for providing temporary emergency respite care;

(5) Procedures for hearing and deciding appeals made under division (F) of this section;

(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.

Rules adopted under divisions (I)(1) and (2) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(3) to (6) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

(K) ~~On the first day of July of each year, the~~ The department of mental retardation and developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.

(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.

Sec. 5126.12. (A) As used in this section:

(1) "Approved school age class" means a class operated by a county board of mental retardation and developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.

(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved ~~by the state board of education~~ under division (B) of section 3317.05 of the Revised Code.

(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.

(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 49 ~~79~~ Stat. ~~620~~ 286 (1935 1965), 42 U.S.C. ~~304~~ 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in a home and community-based services ~~waiver program administered by the department of mental retardation and developmental disabilities as part of the medical assistance program established under section 5111.01 of the Revised Code.~~

(5) "Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.

(6) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.

(B) Each county board of mental retardation and developmental disabilities shall certify to the director of mental retardation and developmental disabilities all of the following:

(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:

(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the

thirtieth day of September of the academic year;

(b) Special education for handicapped children in approved school age classes;

(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:

(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;

(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;

(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;

(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.

(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of mental retardation and developmental disabilities.

The membership in each such program and service in the county shall be reported on forms prescribed by the department of mental retardation and developmental disabilities.

The department of mental retardation and developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.

(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;

(3) On or before the thirtieth day of March, an itemized report of all income and operating expenditures for the immediately preceding calendar

year, in the format specified by the department of mental retardation and developmental disabilities;

(4) By the fifteenth day of February, a report of the total annual cost per enrollee for operation of programs and services in the preceding calendar year. The report shall include a grand total of all programs operated, the cost of the individual programs, and the sources of funds applied to each program.

(5) That each required certification and report is in accordance with rules established by the department of mental retardation and developmental disabilities and the state board of education for the operation and subsidization of the programs and services.

(C) To compute payments under this section to the board for the fiscal year, the department of mental retardation and developmental disabilities shall use the certification of average daily membership required by division (B)(1) of this section exclusive of the average daily membership in any approved school age class and the number in any approved preschool unit.

(D) The department shall pay each county board for each fiscal year an amount equal to nine hundred fifty dollars times the certified number of persons who on the first day of December of the academic year are under three years of age and are not in an approved preschool unit. For persons who are at least age sixteen and are not in an approved school age class, the department shall pay each county board for each fiscal year the following amounts:

(1) One thousand dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment under the community alternative funding system;

(2) One thousand two hundred dollars times the certified average daily membership of persons enrolled in traditional adult services who are eligible for and enrolled in active treatment under the community alternative funding system;

(3) No less than one thousand five hundred dollars times the certified average daily membership of persons enrolled in traditional adult services but who are not eligible for active treatment under the community alternative funding system;

(4) No less than one thousand five hundred dollars times the certified average daily membership of persons participating in community employment services.

(E) The department shall distribute this subsidy to county boards in ~~semiannual~~ quarterly installments of equal amounts. The installments shall

be made not later than the thirtieth day of September, the thirty-first day of August and December, the thirty-first day of January March, and the thirtieth day of June.

(F) The director of mental retardation and developmental disabilities shall make efforts to obtain increases in the subsidies for early childhood services and adult services so that the amount of the subsidies is equal to at least fifty per cent of the statewide average cost of those services minus any applicable federal reimbursements for those services. The director shall advise the director of budget and management of the need for any such increases when submitting the biennial appropriations request for the department.

(G) In determining the reimbursement of a county board for the provision of service and support administration, family support services, and other services required or approved by the director for which children three through twenty-one years of age are eligible, the department shall include the average daily membership in approved school age or preschool units. The department, in accordance with this section and upon receipt and approval of the certification required by this section and any other information it requires to enable it to determine a board's payments, shall pay the agency providing the specialized training the amounts payable under this section.

Sec. 5126.121. Each county board of mental retardation and developmental disabilities may be eligible to receive a subsidy from the department of mental retardation and developmental disabilities for the employment of a business manager as provided in this section. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying standards for the employment of such a business manager. The rules shall include the minimum education and experience requirements for the position of business manager and shall specify requirements for courses in fiscal and business management that are annually sponsored or certified by the department and that are applicable to the position and designed to teach effective business practices. Each county board of mental retardation and developmental disabilities that employs a business manager in accordance with the standards adopted under this section may receive a subsidy from the department.

The department shall distribute this subsidy to eligible county boards in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June.

Sec. 5126.15. (A) A county board of mental retardation and

developmental disabilities shall provide service and support administration to each individual three years of age or older who is eligible for service and support administration if the individual requests, or a person on the individual's behalf requests, service and support administration. A board shall provide service and support administration to each individual receiving home and community-based services. A board may provide, in accordance with the service coordination requirements of 34 C.F.R. 303.23, service and support administration to an individual under three years of age eligible for early intervention services under 34 C.F.R. part 303. A board may provide service and support administration to an individual who is not eligible for other services of the board. Service and support administration shall be provided in accordance with rules adopted under section 5126.08 of the Revised Code.

A board may provide service and support administration by directly employing service and support administrators or by contracting with entities for the performance of service and support administration. Individuals employed or under contract as service and support administrators shall not be in the same collective bargaining unit as employees who perform duties that are not administrative.

Individuals employed by a board as service and support administrators shall not be assigned responsibilities for implementing other services for individuals and shall not be employed by or serve in a decision-making or policy-making capacity for any other entity that provides programs or services to individuals with mental retardation or developmental disabilities. An individual employed as a conditional status service and support administrator shall perform the duties of service and support administration only under the supervision of a management employee who is a service and support administration supervisor or a professional employee who is a service and support administrator.

(B) The individuals employed by or under contract with a board to provide service and support administration shall do all of the following:

- (1) Establish an individual's eligibility for the services of the county board of mental retardation and developmental disabilities;
- (2) Assess individual needs for services;
- (3) Develop individual service plans with the active participation of the individual to be served, other persons selected by the individual, and, when applicable, the provider selected by the individual, and recommend the plans for approval by the department of mental retardation and developmental disabilities when services included in the plans are funded through Medicaid;

(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;

(5) Assist individuals in making selections from among the providers they have chosen;

(6) Ensure that services are effectively coordinated and provided by appropriate providers;

(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;

(8) Perform quality assurance reviews as a distinct function of service and support administration;

(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;

(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day-to-day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.

(C) Subject to available funds, the department of mental retardation and developmental disabilities shall pay a county board an annual subsidy for service and support administration. The amount of the subsidy shall be equal to the greater of twenty thousand dollars or two hundred dollars times the board's certified average daily membership. The payments shall be made in ~~semiannual~~ quarterly installments of equal amounts, which shall be made no later than the thirtieth day of September, the thirty-first day of August and December, the thirty-first day of January March, and the thirtieth day of June. Funds received shall be used solely for service and support administration.

Sec. 5126.18. (A) As used in this section:

(1) "County board" means a county board of mental retardation and developmental disabilities.

(2) Notwithstanding section 5126.01 of the Revised Code, "adult

services" means the following services, as they are identified on individual information forms submitted by county boards to the department of mental retardation and developmental disabilities for the purpose of subsidies paid to county boards under section 5126.12 of the Revised Code, provided to an individual with mental retardation or other developmental disability who is at least twenty-two years of age:

- (a) Assessment;
- (b) Home service;
- (c) Adult program;
- (d) Community employment services;
- (e) Retirement.

(3) "Adult services enrollment" means a county board's average daily membership in adult services, exclusive of such services provided to individuals served solely through service and support administration provided pursuant to section 5126.15 of the Revised Code or family support services provided pursuant to section 5126.11 of the Revised Code.

(4) "Taxable value" means the taxable value of a county board certified under division (B)(1) of this section.

(5) "Per-mill yield" of a county board means the quotient obtained by dividing (a) the taxable value of the county board by (b) one thousand.

(6) "Local adult services cost" means a county board's expenditures for adult services, excluding all federal and state reimbursements and subsidy allocations received by such boards and expended for such services, as certified under section 5126.12 of the Revised Code.

(7) "Statewide average millage" means one thousand multiplied by the quotient obtained by dividing (a) the total of the local adult services costs of all county boards by (b) the total of the taxable values of all county boards.

(8) "County yield" of a county board means the product obtained by multiplying (a) the statewide average millage by (b) the per-mill yield of the county board.

(9) "County yield per enrollee" of a county board means the quotient obtained by dividing (a) the county yield of the county board by (b) the adult enrollment of the county board.

(10) "Statewide yield per enrollee" means the quotient obtained by dividing (a) the sum of the county yields of all county boards by (b) the sum of the adult enrollments of all county boards.

(11) "Local tax effort for adult services" of a county board means one thousand multiplied by the quotient obtained by dividing (a) the local adult services cost of the county board by (b) the taxable value of the county board.

(12) "Funding percentage" for a fiscal year means the percentage that the amount appropriated to the department for the purpose of making payments under this section in the fiscal year is of the amount computed under division (C)(3) of this section for the fiscal year.

(13) "Funding-adjusted required millage" for a fiscal year means the statewide average millage multiplied by the funding percentage for that fiscal year.

(B)(1) On the request of the director of mental retardation and developmental disabilities, the tax commissioner shall provide to the department of mental retardation and developmental disabilities information specifying the taxable value of property on each county's tax list of real and public utility property and tax list of personal property for the most recent tax year for which such information is available. The director may request any other tax information necessary for the purposes of this section.

(2) On the request of the director, each county board shall report the county board's adult services enrollment and local adult services cost.

(C) Each year, the department of mental retardation and developmental disabilities shall compute the following:

(1) For each county board, the amount, if any, by which the statewide yield per enrollee exceeds the county yield per enrollee;

(2) For each county board, the amount of any excess computed under division (C)(1) of this section multiplied by the adult services enrollment of the county board;

(3) The sum of the amounts computed under division (C)(2) of this section for all county boards.

(D) From money appropriated for the purpose, the department, ~~on or before the thirtieth day of September of each year,~~ shall provide for payment to each county board of the amount computed for that county board under division (C)(2) of this section, subject to any reduction or adjustment under division (E), (F), or (G) of this section. The department shall make the payments in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, thirty-first day of December, thirty-first day of March, and thirtieth day of June.

(E) If a county board's local tax effort for adult services is less than the funding-adjusted required millage, the director shall reduce the amount of payment otherwise computed under division (C)(2) of this section so that the amount paid, after the reduction, is the same percentage of the amount computed under division (C)(2) of this section as the county board's local tax effort for adult services is of the funding-adjusted required millage.

If the director reduces the amount of a county board's payment under

this division, the department, not later than the fifteenth day of July, shall notify the county board of the reduction and the amount of the reduction. The notice shall include a statement that the county board may request to be exempted from the reduction by filing a request with the director, in the manner and form prescribed by the director, within twenty-one days after such notification is issued. The board may present evidence of its attempt to obtain passage of levies or any other extenuating circumstances the board considers relevant. If the county board requests a hearing before the director to present such evidence, the director shall conduct a hearing on the request unless the director exempts the board from the reduction on the basis of the evidence presented in the request filed by the board. Upon receiving a properly and timely filed request for exemption, but not later than the thirty-first day of August, the director shall determine whether the county board shall be exempted from all or a part of the reduction. The director may exempt the board from all or part of the reduction if the director finds that the board has made good faith efforts to obtain passage of tax levies or that there are extenuating circumstances.

(F) If a payment is reduced under division (E) of this section and the director does not exempt the county board from the reduction, the amount of the reduction shall be apportioned among all county boards entitled to payments under this section for which payments were not so reduced. The amount apportioned to each county board shall be proportionate to the amount of the board's payment as computed under division (C)(2) of this section.

(G) If, for any fiscal year, the amount appropriated to the department for the purpose of this section is less than the amount computed under division (C)(3) of this section for the fiscal year, the department shall adjust the amount of each payment as computed under divisions (C)(2), (E), and (F) of this section by multiplying that amount by the funding percentage.

(H) The payments authorized by this section are supplemental to all other funds that may be received by a county board. A county board shall use the payments solely to pay the nonfederal share of medicaid expenditures that division (A) of section 5126.057 of the Revised Code requires the county board to pay.

Sec. 5126.44. (A) The department of mental retardation and developmental disabilities, in accordance with Chapter 119. of the Revised Code, shall adopt rules for making allocations for counties and distributing to county boards of mental retardation and developmental disabilities money to be used for planning, development, contracting for, and providing supported living. The rules shall provide for an allocation to be made for

each county on an equitable basis, taking into account any factors that indicate need for supported living for residents of the county.

(B) The department shall annually allocate for each county an amount determined in accordance with the rules adopted under this section. Except as provided in division (C) of this section, the department shall distribute the amount allocated for the county to each county board. Money shall be distributed to county boards in ~~two quarterly~~ installments ~~annually~~, which shall be paid no later than the ~~last day of July and the last day of December~~ thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June. In the case of a county that has not adopted a resolution under division (B) of section 5126.40 of the Revised Code, the department shall use the money allocated for the county to provide supported living under section 5123.182 of the Revised Code.

(C) The department shall not distribute money to a county board for residential services that are being provided by a provider under contract with the department on the effective date of this amendment unless the provider and the county board agree to enter into a contract between the provider and the county board under which the provider will provide the services as supported living. If the conversion of a contract occurs under this division, the provisions of section 5126.451 shall apply as though the contract was transferred under that section.

(D) Pursuant to section 5126.05 of the Revised Code, the county board shall annually adopt a separate budget for money distributed to it under this section. The board shall cause the money to be deposited in a fund created pursuant to division (F) of section 5705.09 of the Revised Code which shall be known as the "community mental retardation and developmental disabilities residential services and supported living fund." The fund shall consist of this money and any other money for residential services or supported living that the board causes to be deposited in the fund. A county board is not required to use any other money for residential services or supported living. A county board may establish a reserve balance account within this fund pursuant to division (C)(2) of section 5705.28 of the Revised Code.

(E) The department of mental retardation and developmental disabilities may adopt rules under Chapter 119. of the Revised Code establishing procedures for an annual reconciliation of state funds that have been deposited in the reserve balance account. The rules may provide for the return of state funds to the appropriate department account when the funds have been unexpended for a period of two years.

(F) A county board may use up to ten per cent of the amount distributed

to it under this section for the administrative costs of developing, arranging, and contracting for supported living and for costs of staff training and support. Annually, each county board shall report to the department all revenue and expenditures pertaining to supported living. The report shall be made in conjunction with the annual report of expenditures submitted pursuant to section 5126.12 of the Revised Code. The report shall list the names of the individuals served, the total number of individuals served on a monthly basis in the preceding calendar year, the types of services provided, the total cost of the services, and the sources of revenue used to cover the cost.

Sec. 5139.01. (A) As used in this chapter:

(1) "Commitment" means the transfer of the physical custody of a child or youth from the court to the department of youth services.

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.

(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.

(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.

(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.

(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or until the legal custody is terminated as otherwise provided by law.

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least ~~twelve~~ ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony;

(c) Children who satisfy all of the following:

(i) They are at least ~~twelve~~ ten years of age but less than eighteen years of age.

(ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony.

(iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged for the past four fiscal years.

(iv) They are in the care and custody of an institution or a community corrections facility.

(d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution, ~~commit in that institution an act that if committed by an adult would be a felony~~, who are serving disciplinary time for having committed ~~that~~ an act described in division (A)(19)(a), (b), or (c) of this section, and who have been institutionalized or institutionalized in a secure facility for the minimum period of time specified in divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code.

(e) Felony delinquents who are subject to and serving a three-year period of commitment order imposed by a juvenile court pursuant to divisions (A) and (B) of section 2152.17 of the Revised Code for an act, other than a violation of section 2911.11 of the Revised Code, that would be a category one offense or category two offense if committed by an adult.

(f) Felony delinquents who are described in divisions (A)(13)(a) to (e) of this section, who have been granted a judicial release to court supervision under division (B) of section 2152.22 of the Revised Code or a judicial release to the department of youth services supervision under division (C) of that section from the commitment to the department of youth services for the act described in divisions (A)(13)(a) to (e) of this section, who have violated the terms and conditions of that release, and who, pursuant to an order of the court of the county in which the particular felony delinquent was placed on release that is issued pursuant to division (D) of section 2152.22 of the Revised Code, have been returned to the department for institutionalization or institutionalization in a secure facility.

(g) Felony delinquents who have been committed to the custody of the department of youth services, who have been granted supervised release from the commitment pursuant to section 5139.51 of the Revised Code, who have violated the terms and conditions of that supervised release, and who, pursuant to an order of the court of the county in which the particular child was placed on supervised release issued pursuant to division (F) of section 5139.52 of the Revised Code, have had the supervised release revoked and have been returned to the department for institutionalization. A felony delinquent described in this division shall be a public safety bed only for the time during which the felony delinquent is institutionalized as a result of the revocation subsequent to the initial thirty-day period of institutionalization required by division (F) of section 5139.52 of the Revised Code.

(14) ~~"State target youth" means twenty five per cent of the projected total number of felony delinquents for each year of a biennium, factoring in~~

~~revocations and recommitments.~~

(15) Unless the context requires a different meaning, "community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

~~(16)~~(15) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

~~(17)~~(16) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

~~(18)~~(17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

~~(19)~~(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the ~~person's or~~ felony delinquent's planned release, and that the department imposes upon the ~~person or~~ felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a misdemeanor;

(c) An act that is not described in division (A)~~(19)~~(18)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

~~(20)~~(19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

~~(21)~~(20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the child's supervised release in accordance with section 5139.52 of the Revised Code.

~~(22)~~(21) "Release authority" means the release authority of the department of youth services that is established by section 5139.50 of the Revised Code.

~~(23)~~(22) "Supervised release" means the event of the release of a child under this chapter from an institution and the period after that release during which the child is supervised and assisted by an employee of the department of youth services under specific terms and conditions for reintegration of the child into the community.

~~(24)~~(23) "Victim" means the person identified in a police report, complaint, or information as the victim of an act that would have been a criminal offense if committed by an adult and that provided the basis for adjudication proceedings resulting in a child's commitment to the legal custody of the department of youth services.

~~(25)~~(24) "Victim's representative" means a member of the victim's family or another person whom the victim or another authorized person designates in writing, pursuant to section 5139.56 of the Revised Code, to represent the victim with respect to proceedings of the release authority of the department of youth services and with respect to other matters specified in that section.

~~(26)~~(25) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, other relative, or legal guardian of a child but does not include a person charged with, convicted of, or adjudicated a delinquent child for committing a criminal or delinquent act against the victim or another criminal or delinquent act arising out of the same conduct, criminal or delinquent episode, or plan as the criminal or delinquent act committed against the victim.

~~(27)~~(26) "Judicial release to court supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (B) of section 2152.22 of the Revised Code during the period specified in that division.

~~(28)~~(27) "Judicial release to department of youth services supervision" means a release of a child from institutional care or institutional care in a secure facility that is granted by a court pursuant to division (C) of section 2152.22 of the Revised Code during the period specified in that division.

~~(29)~~(28) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

~~(30)~~(29) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 181.54 of the Revised Code.

~~(31)~~(30) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 181.56 of the Revised Code.

~~(32)~~(31) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 181.56 of the Revised Code.

~~(33)~~(32) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, all of the functions of the juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions include, but are not limited to, all of the following:

- (a) Delinquency;
- (b) Identification, detection, apprehension, and detention of persons charged with delinquent acts;
- (c) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;
- (d) Adjudication or diversion of persons charged with delinquent acts;
- (e) Custodial treatment of delinquent children;
- (f) Institutional and noninstitutional rehabilitation of delinquent children.

(B) There is hereby created the department of youth services. The governor shall appoint the director of the department with the advice and consent of the senate. The director shall hold office during the term of the appointing governor but subject to removal at the pleasure of the governor. Except as otherwise authorized in section 108.05 of the Revised Code, the director shall devote the director's entire time to the duties of the director's office and shall hold no other office or position of trust or profit during the director's term of office.

The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or

action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

~~(D) Train or provide for training of probation and youth correction workers;~~

(E) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;

~~(F)~~(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year; ~~(G)~~(F)

Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

~~(H) Receive reports from the juvenile courts under division (C)(3)(b) of section 5139.43 of the Revised Code and prepare an annual report of state juvenile court statistics and information based upon those reports. The department shall make available a copy of the annual report to the governor and members of the general assembly upon request.~~

~~(I)~~(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;

~~(J)~~(H) Do all other acts necessary or desirable to carry out this chapter.

Sec. 5139.33. (A) The department of youth services shall make grants in accordance with this section to encourage counties to use community-based programs and services for juveniles who are adjudicated delinquent children for the commission of acts that would be felonies if committed by an adult.

(B) Each county seeking a grant under this section shall file an application with the department of youth services. The application shall be filed at the time and in accordance with procedures established by the department in rules adopted under this section. Each application shall be accompanied by a plan designed to reduce the county's commitment percentage, or to enable it to maintain or attain a commitment percentage that is equal to or below the statewide average commitment percentage. A county's commitment percentage is the percentage determined by dividing the number of juveniles the county committed to the department during the year by the number of juveniles who were eligible to be committed. The statewide average commitment percentage is the percentage determined by dividing the number of juveniles in the state committed to the department during the year by the number of juveniles who were eligible to be committed. These percentages shall be determined by the department using the most reliable data available to it.

Each plan shall include a method of ensuring equal access for minority youth to the programs and services for which the grant will be used.

The department shall review each application and plan to ensure that the requirements of this division are satisfied. Any county applying for a grant under this section that received a grant under this section during the preceding year and that failed to meet its commitment goals for that year shall make the changes in its plan that the department requires in order to continue to be eligible for grants under this section.

(C) Subject to division (E) of this section, the amounts appropriated for the purpose of making grants under this section shall be distributed annually on a per capita basis among the counties that have complied with division (B) of this section.

(D) The department shall adopt rules to implement this section. The rules shall include, but are not limited to, procedures and schedules for submitting applications and plans under this section, including procedures allowing joint-county applications and plans; and procedures for monitoring and evaluating the effectiveness of the programs and services financed with grant money, the enhancement of the use of local facilities and services, and the adequacy of the supervision and treatment provided to juveniles by those programs and services.

(E)(1) Three months prior to the implementation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, each county that is entitled to a grant under this section shall receive its grant money for the fiscal year or the remainder of its grant money for the fiscal year, other than any grant money to which it is entitled

and that is set aside by the department of youth services for purposes of division (E)(2) of this section. The grant money so distributed shall be paid in a lump sum.

(2) During the first twelve months that the felony delinquent care and custody program described in section 5139.43 of the Revised Code is implemented in a county, any grant or the remainder of any grant to which a county is entitled and that is payable from the appropriation made to the department of youth services for community sanctions shall be distributed as follows:

(a) In the first quarter of the twelve-month period, the county shall receive one hundred per cent of the quarterly distribution.

(b) In the second quarter of the twelve-month period, the county shall receive seventy-five per cent of the quarterly distribution.

(c) In the third quarter of the twelve-month period, the county shall receive fifty per cent of the quarterly distribution.

(d) In the fourth quarter of the twelve-month period, the county shall receive twenty-five per cent of the quarterly distribution.

(3) Grant moneys received pursuant to divisions (E)(1) and (2) of this section shall be transmitted by the juvenile court of the recipient county to the county treasurer, shall be deposited by the county treasurer into the felony delinquent care and custody fund created pursuant to division ~~(E)~~(B)(1) of section 5139.43 of the Revised Code, and shall be used by the juvenile court in accordance with division ~~(E)~~(B)(2) of that section. The grant moneys shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(4) One year after the commencement of its operation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, the department shall not make any further grants under this section.

Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions ~~(E)~~(B)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code. The department shall not grant financial assistance pursuant to this section for

the provision of care and services for children in a ~~foster-care~~ placement facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of job and family services, department of education, department of mental health, ~~or~~ department of mental retardation and developmental disabilities, or American Correctional Association. For the purposes of this section, ~~foster-care~~ placement facilities do not include a state institution or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code have been satisfied.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has a population of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C)(1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division ~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and section 5139.43 of the Revised Code. In addition to the subject matters described in division ~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code or in the rules that the department adopts to implement that division, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent care and custody fund created pursuant to division ~~(C)~~(B)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which ~~each county is entitled as follows:~~

(a) ~~Except as provided in division (C)(2)(b) of this section, the department shall disburse the state subsidy funds to which a county is entitled in a lump sum payment that shall be made in July of each calendar year.~~

(b) ~~In the case of state subsidy funds to which a county is entitled for fiscal year 1998, the department shall disburse the state subsidy funds to the county in two distinct payments in accordance with this division. The department shall disburse seventy-five per cent of those state subsidy funds to the county in July 1997. After the department reviews and reconciles the applicable reports that the juvenile court of the county is required to prepare and submit to the department pursuant to section 5139.43 of the Revised Code, the department shall disburse to the county in October 1997, the remainder of the state subsidy funds to which the county is entitled.~~

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section are subject to appropriation by the board of county commissioners of the county; shall be disbursed by the county treasurer as required by division (C)(3) of this section; shall be used in the manners referred to in division (C)(3) of this section; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who are at risk of becoming delinquent children,

unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions ~~(C)~~(B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents to the programs and services for which a potential grant would be used.

(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it.

(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements:

(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility;

(2) Have written standardized criteria governing the types of felony

delinquents that are eligible for the programs and services provided by the facility;

(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks:

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department;

(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the method of distribution of the funds appropriated for grants under this section to community corrections facilities.

~~(E) With the consent of a committing court and of a community corrections facility that has received a grant under this section, the department of youth services may place in that facility a felony delinquent who has been committed to the department. During the period in which the felony delinquent is in that facility, the felony delinquent~~ (1) The department of youth services shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the minimum occupancy threshold of community corrections facilities.

(2) The department may make referrals for the placement of children in its custody to a community corrections facility if the community corrections facility is not meeting the minimum occupancy threshold established by the department. At least forty-five days prior to the referral of a child, the department shall notify the committing court of its intent to place the child in a community corrections facility. The court shall have thirty days after the receipt of the notice to approve or disapprove the placement. If the court does not respond to the notice of the placement within that thirty-day period, the department shall proceed with the placement and debit the county in accordance with sections 5139.41 to 5139.43 of the Revised Code. A child placed in a community corrections facility pursuant to this division shall remain in the legal custody of the department of youth services during the period in which the child is in the community corrections facility.

(3) Counties that are not associated with a community corrections facility may refer children to a community corrections facility with the consent of the facility. The department of youth services shall debit the

county that makes the referral in accordance with sections 5139.41 to 5139.43 of the Revised Code.

(F) If the board or other governing body of a community corrections facility establishes an advisory board, the board or other governing authority of the community corrections facility shall reimburse the members of the advisory board for their actual and necessary expenses incurred in the performance of their official duties on the advisory board. The members of advisory boards shall serve without compensation.

Sec. 5139.41. ~~On and after January 1, 1995, the~~ The appropriation made to the department of youth services for care and custody of felony delinquents shall be expended in accordance with ~~a formula~~ the following procedure that the department shall ~~develop~~ use for each year of a biennium. The ~~formula~~ procedure shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code and shall be developed in accordance with the following guidelines:

(A) ~~The department shall set aside at least three per cent but not more than five per cent of the appropriation for purposes of funding the contingency program described in section 5139.45 of the Revised Code and of use in accordance with that section.~~

(B)(1) After setting aside the amount described in division (A) of this section, the department shall set aside twenty-five per cent of the remainder of the appropriation and use that amount for the purpose described in division (B)(2) of this section and to pay certain of the operational costs ~~associated with, and to provide cash flow for, the following:~~

(a) ~~Institutions;~~

(b) The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under ~~section 5139.08 of the Revised Code;~~

(c) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony ~~delinquents who have been diverted from care and custody in institutions.~~

(2) The department may use a portion of the twenty-five per cent of the remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency ~~program described in section 5139.45 of the Revised Code.~~

(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the

appropriation that is equal to twenty-five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible ~~under sections 5139.41 to 5139.45 of the Revised Code.~~

~~(D) After setting aside the amounts described in divisions (A) to (C) of this section, the department shall set aside the amount of the appropriation that is necessary to pay seventy-five per cent of the per diem cost of public safety beds and shall use that amount for the purpose of paying that per diem cost.~~

~~(E) After setting aside the amounts described in divisions (A) to (D) of this section, the department shall use the remainder of the appropriation in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code, except that, for fiscal year 2002 and fiscal year 2003 and only for those two fiscal years, the total number of beds available to all counties via public safety beds and county allocations shall not be less than the total beds used by all the counties during fiscal year 2000 funded by care and custody chargebacks (Line Item 401) and as public safety beds.~~

~~(F) If the department's appropriation for a fiscal year is subsequently revised by law or its expenditures ordered to be reduced by executive order under section 126.05 of the Revised Code, the department may adjust the amounts described in divisions (A) to (E) of this section in a manner consistent with the revision or reduction. The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:~~

~~(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;~~

~~(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;~~

~~(3) County juvenile courts that administer programs and services for~~

prevention, early intervention, diversion, treatment, and rehabilitation services and programs that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children;

(4) Administrative expenses the department incurs in connection with the felony delinquent care and custody programs described in section 5139.43 of the Revised Code.

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of the Revised Code, shall allocate annual operational funds for county juvenile programs, institutional care and custody, community corrections facilities care and custody, and administrative expenses incurred by the department associated with felony delinquent care and custody programs. The department, with the advice of the RECLAIM advisory committee, shall adjust these allocations, when modifications to this line item are made by legislative or executive action.

(C) The department shall divide county juvenile program allocations among county juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children. The department shall base funding on the county's previous year's ratio of the department's institutional and community correctional facilities commitments to that county's four year average of felony adjudications, divided by statewide ratios of commitments to felony adjudications, as specified in the following formula:

(1) The department shall give to each county a proportional allocation of commitment credits. The proportional allocation of commitment credits shall be calculated by the following procedures:

(a) The department shall determine for each county and for the state a four year average of felony adjudications.

(b) The department shall determine for each county and for the state the number of charged bed days, for both the department and community correctional facilities, from the previous year.

(c) The department shall divide the statewide total number of charged bed days by the statewide total number of felony adjudications, which quotient shall then be multiplied by a factor determined by the department.

(d) The department shall calculate the county's allocation of credits by multiplying the number of adjudications for each court by the result determined pursuant to division (C)(1)(c) of this section.

(2) The department shall subtract from the allocation determined pursuant to division (C)(1) of this section a credit for every chargeable bed day a youth stays in a department institution and two-thirds of credit for every chargeable bed day a youth stays in a community correctional facility. At the end of the year, the department shall divide the amount of remaining credits of that county's allocation by the total number of remaining credits to all counties, to determine the county's percentage, which shall then be applied to the total county allocation to determine the county's payment for the fiscal year.

(3) The department shall pay counties three times during the fiscal year to allow for credit reporting and audit adjustments, and modifications to the appropriated line item for the care and custody of felony delinquents, as described in this section. The department shall pay fifty per cent of the payment by the fifteenth of July of each fiscal year, twenty-five per cent by the fifteenth of January of that fiscal year, and twenty-five per cent of the payment by the fifteenth of June of that fiscal year.

(D) In fiscal year 2004, the payment of county juvenile programs shall be based on the following procedure:

(1) The department shall divide the funding earned by each court in fiscal year 2003 by the aggregate funding of all courts, resulting in a percentage.

(2) The department shall apply the percentage determined under division (D)(1) of this section to the total county juvenile program allocation for fiscal year 2004 to determine each court's total payment.

(3) The department shall make payments in accordance with the schedule established in division (C)(3) of this section.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program ~~with the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The program that~~ shall be operated in accordance with the formula developed pursuant to ~~sections~~ section 5139.41 and 5139.42 of the Revised Code, subject to the conditions specified in this section, ~~and in conjunction with the contingency program described in section 5139.45 of the Revised Code.~~

~~(B)(1) The department of youth services annually shall allocate to each county a portion of the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The portion to be allocated to each county shall be determined by multiplying the county's percentage determined under division (E) of section 5139.42 of the Revised Code by the amount of that remainder. The department shall divide the portion to be~~

allocated to each county by twelve or, if in a particular fiscal year the felony delinquent care and custody program is in effect in a county less than twelve months, by the number of months the program is in effect in that county to ~~determine the monthly allocation to that county.~~

(2)(a) Except as provided in divisions (B)(2)(b) and (E) of this section, the department shall reduce the monthly allocation for each fiscal year to each county as determined under division (B)(1) of this section by both of ~~the following:~~

(i) Seventy-five per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in divisions (B)(2)(a) and (3) of this section, who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release by the juvenile court ~~of that county;~~

(ii) Fifty per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in division (B)(3) of this section, who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court of that ~~county as described in division (E) of section 5139.36 of the Revised Code.~~

Public safety beds shall not be included in the number of felony delinquents who have been adjudicated delinquent children by a juvenile court in making the seventy-five per cent reduction described in division (B)(2)(a)(i) of this section. The department shall bear the care and custody ~~costs associated with public safety beds.~~

(b) If a county has exhausted its current and future monthly allocations for the current fiscal year as determined under division (B)(1) of this section, the department shall bear the remainder of the amounts calculated under divisions (B)(2)(a)(i) and (ii) of this section for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release or in the care and custody of a community corrections facility by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of ~~section 5139.41 of the Revised Code.~~

(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section and subject to the special provisions of division (B)(3)(b) of this section pertaining to monthly allocations under divisions (B)(1) and (2)(a) of this section for the month of June, after the application of division (B)(2)(a) of this section and on or before the fifteenth day of the following month, the department shall disburse to the juvenile court of each county the remainder of the monthly allocation of that county as determined pursuant to ~~divisions (B)(1) and (2)(a) of this section.~~

(b)(i) For the monthly allocation for the month of June of each fiscal year, the department shall estimate for each county the number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than use the actual number of those felony delinquents, shall use the estimated number of those felony delinquents in making the seventy-five per cent and fifty per cent reductions described in those divisions, and shall encumber the remainder of the estimated monthly allocation of each county for the month of June, as determined pursuant to divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for disbursement in the month of July of the next fiscal year in accordance with division (B)(3)(b)(ii) of this section. If the total of the seventy-five per cent and fifty per cent reductions described in division (B)(2)(a) of this section exceeds the estimated monthly allocation of a county for the month of June as so determined, the department may cover the amount of the excess by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of ~~the Revised Code.~~

(ii) In the month of July of each new fiscal year, the department shall reconcile for each county the estimated reductions that occurred pursuant to divisions (B)(2)(a) and (3)(b)(i) of this section and the reductions that should have occurred pursuant to division (B)(2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section for the month of June of the prior fiscal year. After that reconciliation occurs, subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, the department shall disburse to each county the remainder of its monthly allocation for the month of June of the prior fiscal year as adjusted pursuant to the reconciliation and division ~~(B)(3)(b)(ii) of this section.~~

In connection with the adjustments in the monthly allocations for the month of June of the prior fiscal year, if the encumbered monthly allocations of one or more counties for that month exceed or are less than the monthly

allocations for that month to which those counties are entitled under divisions (B)(1) and (2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than the estimated number of those felony delinquents, the department may make the necessary adjustments in the monthly allocations of those counties for the month of June of the prior fiscal year within the total of the moneys for monthly allocations for that month that were encumbered for all of the counties. If that total amount is insufficient to make the requisite monthly allocations for that month to all counties in accordance with divisions (B)(1) and (2)(a) of this section, the department shall cover the insufficiency by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program ~~pursuant to division (A) of section 5139.41 of the Revised Code.~~

~~(4) Notwithstanding the general disbursement requirements of division (B)(3)(a) and (b)(ii) of this section, if a juvenile court fails to comply with division (C)(3)(d) of this section and the department is not able to reconcile fiscal accounting as a consequence of that failure, the department is not required to make any disbursement in accordance with division (B)(3)(a) or (b)(ii) of this section to the juvenile court until it complies with division (C)(3)(d) of this section.~~

~~(C)(4)~~ Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code in accordance with the applicable provisions of division ~~(C)(B)~~ (2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of ~~this section~~ 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division ~~(C)(B)~~ (2) of this

section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The moneys disbursed to the juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this section, a delinquent child includes a child who is so adjudicated for the commission of an act that if committed by an adult would be a misdemeanor or felony.~~

~~If, during the previous state fiscal year, the county did not exceed in any month its monthly allocation as determined pursuant to division (B)(1) of this section in connection with felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section, the moneys in the fund that were~~

~~disbursed to the juvenile court pursuant to division (B) of this section and deposited pursuant to division (C)(1) of this section in the~~ The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division ~~(C)(B)~~(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) The county and the juvenile court that serves the county may not use moneys in the fund for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards that apply to the care and services and that the department prescribes in rules adopted pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code have been satisfied.

(b) Each juvenile court shall comply with division ~~(C)(B)~~(3)(d) of this section as implemented by the department. ~~If a juvenile court fails to comply with that division and the department is not able to reconcile fiscal accounting as a consequence of the failure, the provisions of division (B)(4) of this section shall apply.~~

(3) In accordance with rules adopted by the department pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division ~~(C)(B)~~(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application

for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division ~~(C)(B)~~(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division ~~(C)(B)~~(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division ~~(E)(D)~~ of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year ~~that will permit the department to prepare the report described in division (D) of this section and the annual report described in division (H) of section 5139.04 of the Revised Code.~~ If the juvenile court fails to file the report required by division ~~(C)(B)~~(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of 5139.41 of the Revised Code~~ the applicable monthly allocation of the county until the juvenile court fully complies with division ~~(C)(B)~~(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports ~~for use under section 5139.42 of the Revised Code~~ and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of 5139.41 of the Revised Code~~ the applicable monthly allocation of the county until the juvenile court fully complies with division ~~(C)(B)~~(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) ~~or (b)(ii) of this section the remainder of~~

5139.41 of the Revised Code the applicable ~~monthly~~ allocation of the county, and the state subsidy funds and the remainder of the applicable ~~monthly~~ allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division ~~(C)~~(B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division ~~(C)~~(B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision. If the county fails to make the repayment within that thirty-day period and if the unauthorized expenditures pertain to moneys allocated under sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the department shall deduct the amount of the unauthorized expenditures from the next ~~monthly~~ allocation of those moneys to the county in accordance with this section or from the allocations that otherwise would be made under those sections to the county during the next state fiscal year in accordance with this section and shall return that deducted amount to the state's general revenue fund. If the county fails to

make the repayment within that thirty-day period and if the unauthorized expenditures pertain to moneys granted pursuant to section 5139.34 of the Revised Code, the department shall deduct the amount of the unauthorized expenditures from the next annual grant to the county pursuant to that section and shall return ~~than that~~ that deducted amount to the state's general revenue fund.

(D) On or prior to the first day of December of each year, the department of youth services shall submit to the joint legislative committee on juvenile corrections overcrowding a report that pertains to the operation of sections 5139.34 and 5139.41 to 5139.45 of the Revised Code during the immediately preceding state fiscal year and that includes, but is not limited to, ~~the following:~~

(1) A description of the programs, care, and services that were financed ~~under those sections in each county;~~

(2) The number of felony delinquents, other delinquent children, unruly children, and juvenile traffic offenders served by the programs, care, and ~~services in each county;~~

(3) The total number of children adjudicated in each juvenile court as ~~felony delinquents;~~

(4) The total number of felony delinquents who were committed by the juvenile court of each county to the department and who were in the care ~~and custody of an institution or a community corrections facility;~~

(5) A breakdown of the felony delinquents described in division (D)(4) of this section on the basis of the types and degrees of felonies committed, the ages of the felony delinquents at the time they committed the felonies, ~~and the sex and race of the felony delinquents.~~

~~(E)(C)~~ The determination of which county a reduction of the ~~monthly~~ care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the ~~monthly~~ care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the ~~monthly~~ allocation shall be charged against the county that recommitted the

youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5139.44. (A)(1) There is hereby created the RECLAIM advisory committee that shall be composed of the following nine members:

(a) Two members shall be juvenile court judges appointed by the Ohio association of juvenile and family court judges.

(b) One member shall be the director of youth services or the director's designee.

(c) One member shall be the director of budget and management or the director's designee.

(d) One member shall be a member of a senate committee dealing with finance or criminal justice issues appointed by the president of the senate.

(e) One member shall be a member of a committee of the house of representatives dealing with finance or criminal justice issues appointed by the speaker of the house of representatives.

(f) One member shall be a member of a board of county commissioners appointed by the county commissioners association of Ohio.

(g) Two members shall be juvenile court administrators appointed by the Ohio association of juvenile and family court judges.

(2) The members of the committee shall be appointed or designated within thirty days after the effective date of this section, and the director of youth services shall be notified of the names of the members.

(3) Members described in divisions (A)(1)(a), (f), and (g) of this section shall serve for terms of two years and shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members described in divisions (A)(1)(b) and (c) of this section shall serve as long as they hold the office described in that division. Members described in divisions (A)(1)(d) and (e) of this section shall serve for the duration of the session of the general assembly during which they were appointed, provided they continue to hold the office described in that division. The members described in divisions (A)(1)(a), (d), (e), (f), and (g) may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor

was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(4) Membership on the committee does not constitute the holding of an incompatible public office or employment in violation of any statutory or common law prohibition pertaining to the simultaneous holding of more than one public office or employment. Members of the committee are not disqualified from holding by reason of that membership and do not forfeit because of that membership their public office or employment that qualifies them for membership on the committee notwithstanding any contrary disqualification or forfeiture requirement under existing Revised Code sections.

(B) The director of youth services shall serve as an interim chair of the RECLAIM advisory committee until the first meeting of the committee. Upon receipt of the names of the members of the committee, the director shall schedule the initial meeting of the committee that shall take place at an appropriate location in Columbus and occur not later than sixty days after the effective date of this section. The director shall notify the members of the committee of the time, date, and place of the meeting. At the initial meeting, the committee shall organize itself by selecting from among its members a chair, vice-chair, and secretary. The committee shall meet at least once each quarter of the calendar year but may meet more frequently at the call of the chair.

(C) In addition to its functions with respect to the RECLAIM program described in section 5139.41 of the Revised Code, the RECLAIM advisory committee periodically shall do all of the following:

(1) Evaluate the operation of the RECLAIM program by the department of youth services, evaluate the implementation of the RECLAIM program by the counties, and evaluate the efficiency of the formula described in section 5139.41 of the Revised Code. In conducting these evaluations, the committee shall consider the public policy that RECLAIM funds are to be expended to provide the most appropriate programs and services for felony delinquents and other youthful offenders.

(2) Advise the department of youth services, the office of budget and management, and the general assembly on the following changes that the committee believes should be made:

(a) Changes to sections of the Revised Code that pertain to the RECLAIM program, specifically the formula specified in section 5139.41 of the Revised Code;

(b) Changes in the funding level for the RECLAIM program, specifically the amounts distributed under the formula for county allocations, community correctional facilities, and juvenile correctional facility budgets.

Sec. 5139.87. (A) The department of youth services shall serve as the state agent for the administration of all federal juvenile justice grants awarded to the state.

(B) There are hereby created in the state treasury the federal juvenile justice programs funds. A separate fund shall be established each federal fiscal year. All federal grants and other moneys received for federal juvenile programs shall be deposited into the funds. All receipts deposited into the funds shall be used for federal juvenile programs. All investment earnings on the cash balance in a federal juvenile program fund shall be credited to that fund for the appropriate federal fiscal year.

(C) All rules, orders, and determinations of the office of criminal justice services regarding the administration of federal juvenile justice grants that are in effect on the effective date of this amendment shall continue in effect as rules, orders, and determinations of the department of youth services.

Sec. 5153.122. (A) Each caseworker hired by a public children services agency shall complete at least ninety hours of in-service training during the first year of the caseworker's continuous employment, except that the director of the public children services agency may waive the training requirement for a school of social work graduate who participated in the university partnership program described in division (D) of section 5101.141 of the Revised Code. The training shall consist of courses in recognizing and preventing child abuse and neglect, assessing risks, interviewing persons, investigating cases, intervening, providing services to children and their families, and other topics relevant to child abuse and neglect. After the first year of continuous employment, each caseworker annually shall complete thirty-six hours of training in areas relevant to the caseworker's assigned duties.

(B) Each supervisor hired by a public children services agency shall complete at least sixty hours of in-service training during the first year of the supervisor's continuous employment in that position. After the first year of continuous employment as a supervisor, the supervisor annually shall complete thirty hours of training in areas relevant to the supervisor's assigned duties.

(C) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the training requirements of this section.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the department of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of mental health, department of mental retardation and developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find certified foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation,

acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) Implement a system of risk assessment, in accordance with rules adopted by the director of job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with ~~the partnership~~ each fiscal agreement the board enters into under section

307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section 2151.421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;
(iii) County boards of mental retardation and developmental disabilities;
(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5153.163. (A) As used in this section, "adoptive parent" means, as the context requires, a prospective adoptive parent or an adoptive parent.

(B)(1) ~~If Before a child's adoption is finalized, a public children services agency considers a child with special needs residing in the county served by the agency to be in need of public care or protective services and all of the following apply, the agency shall enter into an agreement with the child's adoptive parent before the child is adopted under which the agency shall make state adoption maintenance subsidy payments as needed on behalf of the child when all of the following apply:~~

~~(a) The child is a child with special needs.~~

~~(b) The child was placed in the adoptive home by a public children services agency or a private child placing agency and may legally be adopted.~~

~~(c) The adoptive parent has the capability of providing the permanent family relationships needed by the child in all areas except financial need as determined by the agency.~~

~~(b)(d) The needs of the child are beyond the economic resources of the adoptive parent as determined by the agency.~~

~~(e) The agency determines the acceptance~~ (e) Acceptance of the child as a member of the adoptive parent's family would not be in the child's best interest without payments on the child's behalf under this section.

~~(2) Payments to an adoptive parent under division (B) of this section shall include medical, surgical, psychiatric, psychological, and counseling~~

~~expenses, and may include maintenance costs if necessary and other costs incidental to the care of the child. No payment of maintenance costs shall be made under division (B) of this section on behalf of a child if either of the following apply:~~

~~(a)(f)~~ The gross income of the adoptive parent's family ~~exceeds~~ does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended;

~~(b)(g)~~ The child is not eligible for adoption assistance payments ~~for maintenance costs~~ under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended.

(2) State adoption maintenance subsidy payment agreements must be made by either the public children services agency that has permanent custody of the child or the public children services agency of the county in which the private child placing agency that has permanent custody of the child is located.

(3) State adoption maintenance subsidy payments shall be made in accordance with the agreement between the public children services agency and the adoptive parent and are subject to an annual redetermination of need.

(4) Payments under this division (B) of this section may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not issued within that time because of a delay in court proceedings. Payments that begin before issuance of the final adoption decree may continue after its issuance.

(C)(1) If, after the child's adoption is finalized, a public children services agency considers a child residing in the county served by the agency to be in need of public care or protective services and both of the following apply, the agency may, and to the extent state funds are appropriated for this purpose shall, enter into an agreement with the child's adoptive parent after the child is adopted under which the agency shall make post adoption special services subsidy payments on behalf of the child as needed when both of the following apply:

~~(1)(a)~~ (a) The child has a physical or developmental handicap or mental or emotional condition that either:

~~(a)(i)~~ (i) Existed before the adoption petition was filed; or

~~(b)~~(ii) Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history.

(2)(b) The agency determines the expenses necessitated by the child's handicap or condition are beyond the adoptive parent's economic resources.

~~Payments to an adoptive parent~~ (2) Services for which a public children services agency may make post adoption special services subsidy payments on behalf of a child under this division shall include medical, surgical, psychiatric, psychological, and counseling expenses services, including residential treatment.

(3) The department of job and family services shall establish clinical standards to evaluate a child's physical or developmental handicap or mental or emotional condition and assess the child's need for services.

(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year.

(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child; except that a public children services agency may waive this requirement if the gross annual income of the child's adoptive family is not more than two hundred per cent of the federal poverty guideline.

(6) A public children services agency may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose.

(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a mentally or physically handicapped person twenty-one years of age or older. Payments under those divisions shall be made in accordance with the terms of the agreement between the public children services agency and the adoptive parent, subject to an annual redetermination of need. The agency may use sources of funding in addition to any state funds appropriated for the purposes of those divisions.

(E) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code that are needed to implement this section. The rules shall establish all of the following:

(1) The application process for ~~payments~~ all forms of assistance provided under this section;

(2) The method to determine the ~~amounts and kinds~~ amount of assistance payable under division (B) of this section;

(3) The definition of "child with special needs" for this section;

(4) The process whereby a child's continuing need for services provided under division (B) of this section is annually redetermined;

(5) The method of determining the amount, duration, and scope of services provided to a child under division (C) of this section;

(6) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this section.

~~The rules shall allow for payments for children placed by nonpublic agencies.~~

~~(E)~~(F) The state adoption special services subsidy program ceases to exist on July 1, 2004, except that, subject to the findings of the annual redetermination process established under division (E) of this section and the child's individual need for services, a public children services agency may continue to provide state adoption special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004.

(G) No public children services agency shall, pursuant to either section 2151.353 or 5103.15 of the Revised Code, place or maintain a child with special needs who is in the permanent custody of an institution or association certified by the department of job and family services under section 5103.03 of the Revised Code in a setting other than with a person seeking to adopt the child, unless the agency has determined and redetermined at intervals of not more than six months the impossibility of adoption by a person listed pursuant to division (B), (C), or (D) of section 5103.154 of the Revised Code, including the impossibility of entering into a payment agreement with such a person. The agency so maintaining such a child shall report its reasons for doing so to the department of job and family services. ~~No agency that fails to so determine, redetermine, and report shall receive more than fifty per cent of the state funds to which it would otherwise be eligible for that part of the fiscal year following placement under section 5101.14 of the Revised Code.~~

The department may take any action permitted under section 5101.24 of the Revised Code for an agency's failure to determine, redetermine, and report on a child's status.

Sec. 5153.60. (A) The department of job and family services shall establish a statewide program that provides ~~the~~ all of the following:

(1) The training section 5153.122 of the Revised Code requires public

children services agency caseworkers and supervisors to complete. ~~The program may also provide the;~~

(2) The preplacement and continuing training described in sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the Revised Code that foster caregivers are required by sections 5103.031, 5103.032, and 5103.033 of the Revised Code to obtain. ~~The;~~

(3) The education programs for adoption assessors required by section 3107.014 of the Revised Code.

(B) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program."

Sec. 5153.69. The training program steering committee shall monitor and evaluate the Ohio child welfare training program to ensure the following:

(A) That the Ohio child welfare training program is a competency-based training system that satisfies the training requirements for public children services agency caseworkers and supervisors under section 5153.122 of the Revised Code;

(B) ~~That, if the Ohio child welfare training program provides preplacement or continuing training for foster caregivers, it as required by section 5153.60 of the Revised Code that meets the same requirements that~~ preplacement training programs and continuing training programs must meet pursuant to section 5103.038 of the Revised Code to obtain approval by the department of job and family services, except that the Ohio child welfare training program is not required to obtain department approval.

Sec. 5153.72. Prior to the beginning of the fiscal biennium that first follows ~~the effective date of this section~~ October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties shall each establish and maintain a regional training center. At any time after the beginning of that biennium, the department of job and family services, on the recommendation of the training program steering committee, may direct a public children services agency to establish and maintain a training center to replace the center established by an agency under this section. There may be no more and no less than eight centers in existence at any time. The department may make a grant to a public children services agency that establishes and maintains a regional training center under this section for the purpose of wholly or partially subsidizing the operation of the center.

Sec. 5153.78. (A) As used in this section:

(1) "Title IV-B" means Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended.

(2) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670(1980).

(3) "Title XX" has the same meaning as in section 5101.46 of the Revised Code.

(B) For purposes of adequately funding the Ohio child welfare training program, the department of job and family services may use any of the following:

(1) The federal financial participation funds withheld pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised Code in an amount determined by the department;

(2) Funds available under Title XX, Title IV-B, and Title IV-E to pay for training costs;

(3) Other available state or federal funds.

Sec. 5310.15. On filing an application for registration, the applicant shall pay to the clerk of the probate court or the clerk of the court of common pleas ten dollars, which is full payment for all clerk's fees and charges in such proceeding on behalf of the applicant. Any defendant, except a guardian ad litem, on entering ~~his~~ an appearance by filing a pleading of any kind, shall pay to the clerk five dollars, which is full payment for all clerk's fees on behalf of such defendant. When any number of defendants enter their appearance at the same time in one pleading by filing a pleading of any kind, one fee shall be paid.

Every required publication in a newspaper shall be paid for by the party on whose application the order of publication is made, in addition to the fees prescribed in the first paragraph of this section. The party at whose request, or on whose behalf, any notice is issued, shall pay for the service of such notice except when such notice is sent by mail by the clerk or the county recorder.

Examiners of titles shall receive for examining title or original reference, and making report on all matters arising under the application, including final certificate as to all necessary parties being made and properly brought before the probate court or the court of common pleas, and as to the proceedings being regular and legal, one half of one per cent of the appraised tax value, the fee in no case to be less than seventy-five or more than two hundred fifty dollars, for each separate and distinct parcel of land included in the application although made up of more than one tract.

Upon a reference to an examiner of titles or to any other person upon a hearing to take evidence and make report to the court, the fee of the referee shall be fixed by the court at not more than fifteen dollars per day for the time actually employed.

For a certificate of an examiner of titles that all necessary parties are before the court, and the proceedings are regular and legal in a suit for partition, foreclosure of mortgage, marshalling of liens, or other suit or proceeding affecting the title of any interest in, or lien or charge upon registered lands, the fees shall be fixed by the court, and shall not be more than twenty-five dollars for each separate and distinct parcel of land included in the petition or application although such parcel is made up of more than one tract.

Guardians for the suit in original registration shall receive three dollars when there is no contest in which the guardian participates. In other cases such guardians shall receive such fees as the court fixes, but not more than twenty-five dollars.

For certifying pending suits, judgments, liens, attachments, executions, or levies, the officers certifying them to the recorder shall receive a fee of twenty-five cents to be paid by the party interested and taxed in the costs of the case.

For serving summons, notice, or other paper provided for in sections 5309.02 to 5310.21 of the Revised Code, the sheriff or other officer shall receive the same fees as in other similar cases.

The recorder shall receive the following fees, to include base fees for services and housing trust fund fees pursuant to section 317.36 of the Revised Code:

(A) For original registration of title, issuing duplicate certificate, entering memorials and memorandums, as directed by the decree, and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars;

(B) For examining and registering each transfer of registered land, including the filing of all papers therewith, entering memorials, issuing new duplicate certificate of title and indexing it, a base fee of thirty dollars and a housing trust fund fee of thirty dollars for the first distinct body or parcel of land contained in such certificate, and a base fee of two dollars and a housing trust fund fee of two dollars for each additional distinct body or parcel of land contained in such certificate;

(C) For filing, examining, and entering a memorial of each mortgage or lease, upon registered land, and indexing it, for each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars;

(D) For filing, examining, and entering a memorial of each lien, charge, or demand upon registered land, and indexing it, for each separately registered parcel of land, a base fee of five dollars and a housing trust fund fee of five dollars;

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; for entry of change of address, or notice of dower, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(F) For each certified copy of a registered certificate, or issuing a mortgagee's duplicate certificate, or issuing a new owner's duplicate certificate to replace one which has been lost or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars;

(G) For filing, examining, and entering a memorial of each release, assignment, or waiver of priority of a mortgage, lease, lien, charge, or demand upon registered land and indexing it, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(H) For filing, examining, and entering a memorial of each official certificate of pending suit, judgment, lien, attachment, execution, or levy, upon registered land and indexing it, for each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars;

(I) For continuing an owner's duplicate certificate, or mortgagee's duplicate certificate and entering and certifying memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars;

(J) For certificate as to taxes and special assessments, for each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars;

(K) For filing, recording, and indexing any papers or instruments other than those provided in this section, any certified copy of record, or of any instrument on file in ~~his~~ the recorder's office, the same fees allowed by law for like services;

(L) For issuing subpoenas and notices and swearing witnesses, the same fees allowed the clerk for like services.

Costs as provided in this section may be taxed and by the court ordered to be paid by the parties in such manner as is just.

Sec. 5502.01. (A) The department of public safety shall administer and enforce the laws relating to the registration, licensing, sale, and operation of motor vehicles and the laws pertaining to the licensing of drivers of motor vehicles.

The department shall compile, analyze, and publish statistics relative to motor vehicle accidents and the causes of them, prepare and conduct educational programs for the purpose of promoting safety in the operation of motor vehicles on the highways, and conduct research and studies for the purpose of promoting safety on the highways of this state.

(B) The department shall administer the laws and rules relative to trauma and emergency medical services specified in Chapter 4765. of the Revised Code.

(C) The department shall administer and enforce the laws contained in Chapters 4301. and 4303. of the Revised Code and enforce the rules and orders of the liquor control commission pertaining to retail liquor permit holders.

(D) The department shall administer the laws governing the state emergency management agency and shall enforce all additional duties and responsibilities as prescribed in the Revised Code related to emergency management services.

(E) The department shall conduct investigations pursuant to Chapter 5101. of the Revised Code in support of the duty of the department of job and family services to administer food stamp programs throughout this state. The department of public safety shall conduct investigations necessary to protect the state's property rights and interests in the food stamp program.

(F) The department of public safety shall enforce compliance with orders and rules of the public utilities commission and applicable laws in accordance with Chapters 4919., 4921., and 4923. of the Revised Code regarding commercial motor vehicle transportation safety, economic, and hazardous materials requirements.

(G) Notwithstanding Chapter 4117. of the Revised Code, the department of public safety may establish requirements for its enforcement personnel, including its enforcement agents described in section 5502.14 of the Revised Code, that include standards of conduct, work rules and procedures, and criteria for eligibility as law enforcement personnel.

(H) The department shall administer, maintain, and operate the Ohio criminal justice network. The Ohio criminal justice network shall be a computer network that supports state and local criminal justice activities. The network shall be an electronic repository for various data, which may include arrest warrants, notices of persons wanted by law enforcement agencies, criminal records, prison inmate records, stolen vehicle records, vehicle operator's licenses, and vehicle registrations and titles.

(I) The department shall coordinate all homeland security activities of all state agencies and shall be a liaison between state agencies and local entities for those activities and related purposes.

Sec. 5502.03. (A) There is hereby created in the department of public safety a division of homeland security. It is the intent of the general assembly that the creation of the division of homeland security of the department of public safety by this amendment does not result in an increase

of funding appropriated to the department.

(B)(1) The division shall coordinate all homeland security activities of all state agencies and shall be the liaison between state agencies and local entities for the purposes of communicating homeland security funding and policy initiatives.

(2) The division shall be in charge of the systems operations of the multi-agency radio communications system (MARCS) in accordance with any rules that the director of public safety may adopt. The director shall appoint a steering committee to advise the director in the operation of the MARCS, comprised of persons who represent the users of that system. The director or the director's designee shall chair the committee.

(C) The director of public safety shall appoint an executive director, who shall be head of the division of homeland security and who regularly shall advise the governor and the director on matters pertaining to homeland security. The executive director shall serve at the pleasure of the director of public safety. To carry out the duties assigned under this section, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain necessary staff and may enter into any necessary agreements.

(D) Except as otherwise provided by law, nothing in this section shall be construed to give the director of public safety or the executive director of the division of homeland security authority over the incident management structure or responsibilities of local emergency response personnel.

Sec. 5502.13. The department of public safety shall maintain an investigative unit in order to conduct investigations and other enforcement activity authorized by Chapters 4301., 4303., 5101., 5107., ~~and 5108., and 5115.~~ and sections 2903.12, 2903.13, 2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 4507.30,~~and 5115.03~~ of the Revised Code. The director of public safety shall appoint the employees of the unit who are necessary, designate the activities to be performed by those employees, and prescribe their titles and duties.

Sec. 5513.01. (A) All purchases of machinery, materials, supplies, or other articles that the director of transportation makes shall be in the manner provided in this section. In all cases except those in which the director provides written authorization for purchases by district deputy directors of transportation, all such purchases shall be made at the central office of the department of transportation in Columbus. Before making any purchase at that office, the director, as provided in this section, shall give notice to bidders of the director's intention to purchase. Where the expenditure does

not exceed the amount applicable to the purchase of supplies specified in division (B)(1) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give such notice as the director considers proper, or the director may make the purchase without notice. Where the expenditure exceeds the amount applicable to the purchase of supplies specified in division (B)(1) of section 125.05 of the Revised Code, as adjusted pursuant to division (D) of that section, the director shall give notice by posting for not less than ten days a written, typed, or printed invitation to bidders on a bulletin board, which shall be located in a place in the offices assigned to the department and open to the public during business hours. Producers or distributors of any product may notify the director, in writing, of the class of articles for the furnishing of which they desire to bid and their post-office addresses, in which case copies of all invitations to bidders relating to the purchase of such articles shall be mailed to such persons by the director by regular first class mail at least ten days prior to the time fixed for taking bids. The director also may mail copies of all invitations to bidders to news agencies or other agencies or organizations distributing information of this character. Requests for invitations shall not be valid nor require action by the director unless renewed, either annually or after such shorter period as the director may prescribe by a general rule. The invitation to bidders shall contain a brief statement of the general character of the article that it is intended to purchase, the approximate quantity desired, and a statement of the time and place where bids will be received, and may relate to and describe as many different articles as the director thinks proper, it being the intent and purpose of this section to authorize the inclusion in a single invitation of as many different articles as the director desires to invite bids upon at any given time. Invitations issued during each calendar year shall be given consecutive numbers, and the number assigned to each invitation shall appear on all copies thereof of it. In all cases where notice is required by this section, sealed bids shall be taken, on forms prescribed and furnished by the director, and modification of bids after they have been opened shall not be permitted.

(B) The director may permit any political subdivision and any state university or college to participate in contracts into which the director has entered for the purchase of machinery, materials, supplies, or other articles. Any political subdivision or state university or college desiring to participate in such purchase contracts shall file with the director a certified copy of the ordinance or resolution of its legislative authority, board of trustees, or other governing board requesting authorization to participate in such contracts and agreeing to be bound by ~~such~~ the terms and conditions as the director

prescribes. Purchases made by political subdivisions or state universities or colleges under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies, or other articles.

(C) As used in this section:

(1) "Political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, port authority, regional transit authority, regional airport authority, regional water and sewer district, or county transit board.

(2) "State university or college" has the same meaning as in division (A)(1) of section 3345.32 of the Revised Code.

Sec. 5515.07. (A) The director of transportation, in accordance with Chapter 119. of the Revised Code, shall adopt rules consistent with the safety of the traveling public and consistent with the national policy to govern the use and control of rest areas within the limits of the right-of-way of interstate highways and other state highways and in other areas within the limits of the right-of-way of interstate highways.

(B) Except as provided in division (C) of this section, no person shall engage in selling or offering for sale or exhibiting for purposes of sale, goods, products, merchandise, or services within the bounds of rest areas within the limits of the right-of-way of interstate highways and other state highways, or in other areas within the limits of the right-of-way of interstate highways, unless the director issues a permit in accordance with section 5515.01 of the Revised Code. Notwithstanding any rules adopted by the director to the contrary or any other policy changes proposed by the director, each district deputy director of the department of transportation shall continue to implement any program allowing organizations to dispense free coffee or similar items after obtaining a permit that operated within the district prior to January 1, 1997. Each district deputy director shall operate such program within the district in the same manner as the program was operated prior to that date.

(C) In accordance with rules adopted under division (A) of this section, the director may cause vending machines to be placed within each rest area that is able to accommodate the machines. The vending machines shall dispense food, drink, and other appropriate articles.

(D) This section does not apply to the sale of goods, products, merchandise, or services required for the emergency repair of motor vehicles or emergency medical treatment, or to the department of transportation as provided in section 5515.08 of the Revised Code.

Sec. 5515.08. (A) The department of transportation may contract to sell commercial advertising space within or on the outside surfaces of any building located within a roadside rest area under its jurisdiction in exchange for cash payment. Money the department receives under this section shall be deposited in the state treasury to the credit of the roadside rest area improvement fund, which is hereby created. The department shall use the money in the fund only to improve roadside rest areas in accordance with section 5529.06 of the Revised Code.

(B) Advertising placed under this section shall comply with all of the following:

(1) It shall not be libelous or obscene and shall not promote any illegal product or service.

(2) It shall not promote illegal discrimination on the basis of the race, religion, national origin, handicap, age, or ancestry of any person.

(3) It shall not support or oppose any candidate for political office or any political cause, issue, or organization.

(4) It shall comply with any controlling federal or state regulations or restrictions.

(5) To the extent physically and technically practical, it shall state that the advertisement is a paid commercial advertisement and that the state does not endorse the product or service promoted by the advertisement or make any representation about the accuracy of the advertisement or the quality or performance of the product or service promoted by the advertisement.

(6) It shall conform to all applicable rules adopted by the director of transportation under division (E) of this section.

(C) Contracts entered into under this section shall be awarded only to the qualified bidder who submits the highest responsive bid or according to uniformly applied rate classes.

(D) No person, except an advertiser alleging a breach of contract or the improper awarding of a contract, has a cause of action against the state with respect to any contract or advertising authorized by this section. Under no circumstances is the state liable for consequential or noneconomic damages with respect to any contract or advertising authorized under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section. The rules shall be consistent with the policy of protecting the safety of the traveling public and consistent with the national policy governing the use and control of such roadside rest areas. The rules shall regulate the awarding of contracts and may regulate the content, display, and other aspects of the commercial advertising authorized by this section.

Sec. 5549.21. The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may authorize the purchase or employment of such material and labor by one of its number, or by the township highway superintendent, at a price to be fixed by the board. All payments on account of machinery, tools, material, and labor shall be made from the township road fund. Except as otherwise provided in sections 505.08, 505.101, and 5513.01 of the Revised Code, all purchases of materials, machinery, and tools shall, ~~where~~ if the amount involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made from the lowest responsible bidder after advertisement, as provided in section 5575.01 of the Revised Code. ~~Where~~

If, in compliance with section 505.10 of the Revised Code, the board wishes to sell machinery, equipment, or tools owned by the township to the person from whom it is to purchase other machinery, equipment, or tools, the board may offer, ~~where~~ if the amount of the purchase alone involved does not exceed ~~fifteen~~ twenty-five thousand dollars, to sell such machinery, equipment, or tools and have the amount credited by the vendor against the purchase of the other machinery, equipment, or tools. ~~Where~~ If the purchase price of the other machinery, equipment, or tools alone exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give notice to the competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment, or tools, and ~~such~~ those offers shall be subtracted from the selling price of the other machinery, equipment, or tools as bid, in determining the lowest responsible bidder. Notice of the willingness of the board to accept offers for the purchase of the old machinery, equipment, or tools shall be made as a part of the advertisement for bids.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the

Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, or fee refund, or tax credit due, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state may shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from current receipts of the same tax or the fee for from which the refund arose or, in the case of a tax credit refund, from the current receipts of the taxes levied by sections 5739.02 and 5741.02 of the Revised Code. If

If the tax refund arises from a tax payable to the general revenue fund, and current receipts from that source the tax or fee from which the refund arose are inadequate to make the transfer of the amount so certified, the treasurer of state may shall transfer such certified amount from current receipts of the sales tax levied by section 5739.02 of the Revised Code.

(2) When the treasurer of state provides for the payment of a refund of a tax or fee from the current receipts of the sales tax, and the refund is for a tax or fee that is not levied by the state, the tax commissioner shall recover the amount of that refund from the next distribution of that tax or fee that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax or fee, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5703.56. (A) As used in this section:

(1) "Sham transaction" means a transaction or series of transactions without economic substance because there is no business purpose or expectation of profit other than obtaining tax benefits.

(2) "Tax" includes any tax or fee administered by the tax commissioner.

(3) "Taxpayer" includes any entity subject to a tax.

(4) "Controlled group" means two or more persons related in such a way that one person directly or indirectly owns or controls the business operation of another member of the group. In the case of persons with stock or other equity, one person owns or controls another if it directly or indirectly owns more than fifty per cent of the other person's common stock with voting rights or other equity with voting rights.

(B) The tax commissioner may disregard any sham transaction in ascertaining any taxpayer's tax liability. Except as otherwise provided in the

Revised Code, with respect to transactions between members of a controlled group, the taxpayer shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions between the taxpayer and one or more members of the controlled group was not a sham transaction. Except as otherwise provided in the Revised Code, for all other taxpayers, the tax commissioner shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions was a sham transaction.

(C) In administering any tax, the tax commissioner may apply the doctrines of "economic reality," "substance over form," and "step transaction."

(D) If the commissioner disregards a sham transaction under division (B) of this section, the applicable limitation period for assessing the tax, together with applicable penalties, charges, and interest, shall be extended for a period equal to the applicable limitation period. Nothing in this division shall be construed as extending an applicable limitation period for claiming any refund of a tax.

(E) The tax commissioner may, in accordance with Chapter 119. of the Revised Code, adopt rules that are necessary to administer this section, including rules establishing criteria for identifying sham transactions.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio business gateway and shall recommend to the department of administrative services enhancements that will improve the Ohio business gateway. The committee shall consider all banking, technological, administrative, and other issues associated with the Ohio business gateway and shall make recommendations regarding the type of reporting forms or other tax documents to be filed through the Ohio business gateway.

(C) The committee shall consist of:

(1) The following members, appointed by the governor with the advice and consent of the senate:

(a) Not more than two representatives of the business community;

(b) Not more than three representatives of municipal tax administrators;

and

(c) Not more than two tax practitioners.

(2) The following ex officio members:

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee;

(b) The secretary of state or the secretary of state's designee;

(c) The treasurer of state or the treasurer of state's designee;

(d) The director of budget and management or the director's designee;

(e) The director of administrative services or the director's designee; and

(f) The tax commissioner or the tax commissioner's designee.

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments.

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties.

(E) The committee is a part of the department of taxation for administrative purposes.

(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as the committee's secretary. The secretary shall keep minutes of the committee's meetings and a journal of all meetings, proceedings, findings, and determinations of the committee.

(G) The committee shall hire professional, technical, and clerical staff needed to support its activities.

(H) The committee shall meet as often as necessary to perform its duties.

Sec. 5703.80. There is hereby created in the state treasury the property tax administration fund. All money to the credit of the fund shall be used to defray the costs incurred by the department of taxation in administering the taxation of property and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of July, the tax commissioner shall compute the following amounts for the property in each taxing district in each county, and certify to the director of budget and management the sum of those amounts for all taxing districts in all counties:

(A) Three-tenths of one per cent of the total amount by which taxes charged against real property on the general tax list of real and public utility

property were reduced under section 319.302 of the Revised Code for the preceding tax year;

(B) Fifteen-hundredths of one per cent of the total amount of taxes charged and payable against public utility personal property on the general tax list of real and public utility property for the preceding tax year;

(C) Seventy-five hundredths of one per cent of the total amount of taxes charged and payable against tangible personal property on the general tax list of personal property of the preceding tax year and for which returns were filed with the tax commissioner under section 5711.13 of the Revised Code.

After receiving the tax commissioner's certification, the director of budget and management shall transfer from the general revenue fund to the property tax administration fund one-fourth of the amount certified on or before each of the following days: the first days of August, November, February, and May.

On or before the thirtieth day of June of the fiscal year, the tax commissioner shall certify to the director of budget and management the sum of the amounts by which the amounts computed for a taxing district under divisions (A), (B), and (C) of this section exceeded the distributions to the taxing district under division (F) of section 321.24 of the Revised Code, and the director shall transfer that sum from the property tax administration fund to the general revenue fund.

Sec. 5705.39. The total appropriations from each fund shall not exceed the total of the estimated revenue available for expenditure therefrom, as certified by the budget commission, or in case of appeal, by the board of tax appeals. No appropriation measure shall become effective until the county auditor files with the appropriating authority ~~and in the case of a school district, also files with the superintendent of public instruction,~~ a certificate that the total appropriations from each fund, taken together with all other outstanding appropriations, do not exceed such official estimate or amended official estimate. When the appropriation does not exceed such official estimate, the county auditor shall give such certificate forthwith upon receiving from the appropriating authority a certified copy of the appropriation measure, ~~a copy of which he shall deliver to the superintendent of public instruction in the case of a school district.~~ Appropriations shall be made from each fund only for the purposes for which such fund is established.

Sec. 5705.41. No subdivision or taxing unit shall:

(A) Make any appropriation of money except as provided in Chapter 5705. of the Revised Code; provided, that the authorization of a bond issue

shall be deemed to be an appropriation of the proceeds of the bond issue for the purpose for which such bonds were issued, but no expenditure shall be made from any bond fund until first authorized by the taxing authority;

(B) Make any expenditure of money unless it has been appropriated as provided in such chapter;

(C) Make any expenditure of money except by a proper warrant drawn against an appropriate fund;

(D)(1) Except as otherwise provided in division (D)(2) of this section and section 5705.44 of the Revised Code, make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the fiscal officer of the subdivision that the amount required to meet the obligation or, in the case of a continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the obligation in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances. This certificate need be signed only by the subdivision's fiscal officer. Every such contract made without such a certificate shall be void, and no warrant shall be issued in payment of any amount due thereon. If no certificate is furnished as required, upon receipt by the taxing authority of the subdivision or taxing unit of a certificate of the fiscal officer stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract and in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances, such taxing authority may authorize the drawing of a warrant in payment of amounts due upon such contract, but such resolution or ordinance shall be passed within thirty days after the taxing authority receives such certificate; provided that, if the amount involved is less than one hundred dollars in the case of counties or three thousand dollars in the case of all other subdivisions or taxing units, the fiscal officer may authorize it to be paid without such affirmation of the taxing authority of the subdivision or taxing unit, if such expenditure is otherwise valid.

(2) Annually, the board of county commissioners may adopt a resolution exempting for the current fiscal year county purchases of seven hundred fifty dollars or less from the requirement of division (D)(1) of this section that a certificate be attached to any contract or order involving the expenditure of money. The resolution shall state the dollar amount that is exempted from the certificate requirement and whether the exemption applies to all purchases, to one or more specific classes of purchases, or to

the purchase of one or more specific items. Prior to the adoption of the resolution, the board shall give written notice to the county auditor that it intends to adopt the resolution. The notice shall state the dollar amount that is proposed to be exempted and whether the exemption would apply to all purchases, to one or more specific classes of purchases, or to the purchase of one or more specific items. The county auditor may review and comment on the proposal, and shall send any comments to the board within fifteen days after receiving the notice. The board shall wait at least fifteen days after giving the notice to the auditor before adopting the resolution. A person authorized to make a county purchase in a county that has adopted such a resolution shall prepare and file with the county auditor, within three business days after incurring an obligation not requiring a certificate, a written document specifying the purpose and amount of the expenditure, the date of the purchase, the name of the vendor, and such additional information as the auditor of state may prescribe.

(3) Upon certification by the auditor or other chief fiscal officer that a certain sum of money, not in excess of ~~five thousand dollars~~ an amount established by resolution or ordinance adopted by a majority of the members of the legislative authority of the subdivision or taxing unit, has been lawfully appropriated, authorized, or directed for a certain purpose and is in the treasury or in the process of collection to the credit of a specific line-item appropriation account in a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such line-item appropriation account in such fund, over a period ~~not exceeding three months and~~ not extending beyond the end of the fiscal year, expenditures may be made, orders for payment issued, and contracts or obligations calling for or requiring the payment of money made and assumed; provided, that the aggregate sum of money included in and called for by such expenditures, orders, contracts, and obligations shall not exceed the sum so certified. Such a certification need be signed only by the fiscal officer of the subdivision or the taxing district and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such certificate shall be rendered to the auditor or other chief fiscal officer before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

In addition to providing the certification for expenditures ~~of five thousand dollars or less as provided~~ specified in this division, a subdivision also may make expenditures, issue orders for payment, and make contracts or obligations calling for or requiring the payment of money made and assumed for specified permitted purposes from a specific line-item

appropriation account in a specified fund for a sum of money upon the certification by the fiscal officer of the subdivision that this sum of money has been lawfully appropriated, authorized, or directed for a permitted purpose and is in the treasury or in the process of collection to the credit of the specific line-item appropriation account in the specified fund free from previous and then-outstanding obligations or certifications; provided that the aggregate sum of money included in and called for by the expenditures, orders, and obligations shall not exceed the certified sum. The purposes for which a subdivision may lawfully appropriate, authorize, or issue such a certificate are the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the subdivision or contracting authority; fuel oil, gasoline, food items, roadway materials, and utilities; and any purchases exempt from competitive bidding under section 125.04 of the Revised Code and any other specific expenditure that is a recurring and reasonably predictable operating expense. Such a certification shall not extend beyond the end of the fiscal year or, in the case of a board of county commissioners that has established a quarterly spending plan under section 5705.392 of the Revised Code, beyond the quarter to which the plan applies. Such a certificate shall be signed by the fiscal officer and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such a certificate shall be rendered to the fiscal officer for each certificate issued. More than one such certificate may be outstanding at any time.

In any case in which a contract is entered into upon a per unit basis, the head of the department, board, or commission for the benefit of which the contract is made shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the fiscal officer of the subdivision. Such a contract may be entered into if the appropriation covers such estimate, or so much thereof as may be due during the current year. In such a case the certificate of the fiscal officer based upon the estimate shall be a sufficient compliance with the law requiring a certificate.

Any certificate of the fiscal officer attached to a contract shall be binding upon the political subdivision as to the facts set forth therein. Upon request of any person receiving an order or entering into a contract with any political subdivision, the certificate of the fiscal officer shall be attached to such order or contract. "Contract" as used in this section excludes current payrolls of regular employees and officers.

Taxes and other revenue in process of collection, or the proceeds to be

derived from authorized bonds, notes, or certificates of indebtedness sold and in process of delivery, shall for the purpose of this section be deemed in the treasury or in process of collection and in the appropriate fund. This section applies neither to the investment of sinking funds by the trustees of such funds, nor to investments made under sections 731.56 to 731.59 of the Revised Code.

No district authority shall, in transacting its own affairs, do any of the things prohibited to a subdivision by this section, but the appropriation referred to shall become the appropriation by the district authority, and the fiscal officer referred to shall mean the fiscal officer of the district authority.

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the Revised Code:

(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substances, or any combination thereof.

(B) "Air pollution control facility" means any property designed, constructed, or installed for the primary purpose of eliminating or reducing the emission of, or ground level concentration of, air contaminants which generated at an industrial or commercial plant or site that renders air harmful or inimical to the public health or to property within this state, or such property installed on or after November 1, 1993, at a petroleum refinery for the primary purpose of eliminating or reducing substances within fuel that otherwise would create the emission of air contaminants upon the combustion of fuel.

(C) "Energy conversion" means the conversion of fuel or power usage and consumption from natural gas to an alternate fuel or power source other than propane, butane, naphtha, or fuel oil; or the conversion of fuel or power usage and consumption from fuel oil to an alternate fuel or power source other than natural gas, propane, butane, or naphtha.

(D) "Energy conversion facility" means any additional property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or commercial plant or site for the primary purpose of energy conversion.

(E) "Exempt facility" means any of the facilities defined in division (B), (D), (F), (I), (K), or (L) of this section for which an exempt facility certificate is issued pursuant to section 5709.21 or for which a certificate remains valid under section 5709.201 of the Revised Code.

(F) "Noise pollution control facility" means any property designed, constructed, or installed ~~in or on~~ for use at an industrial or commercial plant or site for the primary purpose of eliminating or reducing, at that plant or site, the emission of sound which is harmful or inimical to persons or

property, or materially reduces the quality of the environment, as shall be determined by the director of environmental protection within such standards for noise pollution control facilities and standards for environmental noise necessary to protect public health and welfare as may be promulgated by the United States environmental protection agency. In the absence of such United States environmental protection agency standards, the determination shall be made in accordance with generally accepted current standards of good engineering practice in environmental noise control.

Facilities (G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris.

(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose.

(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion.

(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating.

(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement.

(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to an industrial water pollution control facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised

Code, as applicable, apply to the terms used in this division.

(M) Property designed, constructed, installed, used, or placed in operation solely primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel, or by of a business solely for its, or primarily for a business's own benefit, are not pollution control facilities is not an "exempt facility."

Sec. 5709.201. (A) Except as provided in divisions (C)(4)(a) and (c) of section 5709.22 and division (F) of section 5709.25 of the Revised Code, a certificate issued under section 5709.21, 5709.31, 5709.46, or 6111.31 of the Revised Code that was valid and in effect on the effective date of this section shall continue in effect subject to the law as it existed before that effective date. Division (C)(4)(b) of section 5709.22 of the Revised Code does not apply to any certificate issued by the tax commissioner before July 1, 2003.

(B) Any applications pending on the effective date of this section for which a certificate had not been issued on or before that effective date under section 6111.31 of the Revised Code shall be transferred to the tax commissioner for further administering. Sections 5709.20 to 5709.27 of the Revised Code apply to such pending applications, excluding the requirement of section 5709.212 of the Revised Code that applicants must pay the fee.

(C) For applications pending on the effective date of this section, division (D) of section 5709.25 of the Revised Code allowing the commissioner to assess any additional tax notwithstanding any other time limitations imposed by law on the denied portion of the applicant's claim applies only to tax periods that would otherwise be open to assessment on that effective date.

Sec. 5709.21. (A) As used in this section:

(1) "Exclusive property" means real and personal property that is installed, used, and necessary for the operation of an exempt facility, and that is not auxiliary property unless the auxiliary property exempt cost equals or exceeds eighty-five per cent of the total cost of the property.

(2) "Auxiliary property" means personal property installed, used, and necessary for the operation of an exempt facility that is also used in other operations of the business other than an exempt facility purpose described in section 5709.20 of the Revised Code. "Auxiliary property" does not include property with an auxiliary property exempt cost that is less than or equal to fifteen per cent of the total cost of such property.

(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows:

(a) If the auxiliary property is used for an exempt facility purpose for

discrete periods of time, the exempt cost shall be determined by the ratio of time the auxiliary property is in use in such exempt capacity to the total time it is in use. Division (A)(3)(a) of this section does not apply if the property is concurrently used for an exempt facility purpose and a nonexempt facility purpose.

(b) The applicant has the burden of proving the exempt cost of all auxiliary property not described in division (A)(3)(a) of this section.

(c) Any cost related to an expansion of the commercial or industrial site that is not related to the operation of the exempt facility shall not be included as an auxiliary exempt cost under division (A)(3) of this section.

(B) Application for an ~~air or noise pollution control~~ exempt facility certificate shall be filed with the tax commissioner in such manner and in such form as ~~may be~~ prescribed by ~~regulations issued by the~~ tax commissioner ~~and~~. The application shall contain plans and specifications of the ~~structure or structures~~ property, including all materials incorporated ~~and~~ or to be incorporated therein ~~and~~ their associated costs, and a descriptive list of all equipment acquired or to be acquired by the applicant for the ~~purpose of air or noise pollution control~~ exempt facility and its associated cost. If the commissioner, ~~after obtaining the opinion of the director of environmental protection,~~ finds that the ~~proposed facility~~ property was designed primarily for the ~~control of air or noise pollution as defined in section 5709.20 of the Revised Code,~~ as an exempt facility and is suitable and reasonably adequate for such purpose and is intended for such purpose, ~~he~~ the commissioner shall enter a finding and issue a certificate to that effect. ~~Said certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such pollution control facility or that part used exclusively for air or noise pollution control.~~ The effective date of ~~said~~ the certificate shall be the date of the ~~making of the~~ application ~~was made~~ for such certificate or the date of the construction of the facility, whichever is earlier; ~~provided, that if such application relates to facilities placed in operation or capable of operation prior to October 2, 1969, the effective date of the certificate shall be the date of the application.~~

Nothing in this section shall be construed to extend the time period to file, to keep the time period to file open, or supersede the requirement of filing a tax refund or other tax reduction request in the manner and within the time prescribed by law.

(C)(1) Except as provided in division (C)(2) of this section, the certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such exempt facility that is exclusive property used for a purpose enumerated in section 5709.20 of the Revised

Code.

(2) Auxiliary property shall be permitted a partial tax exemption under section 5709.25 of the Revised Code, but only to the extent allowed pursuant to division (A)(3) of this section.

(D) The tax commissioner may allow an applicant to file one application that applies to more than one exempt facility that are the same or substantially similar, so long as such facilities are located within the same county.

Sec. 5709.211. (A) Before issuing an exempt facility certificate pursuant to section 5709.21 of the Revised Code, the tax commissioner shall provide a copy of a properly completed application to, and obtain the opinion of, the director of environmental protection in the case of an exempt facility described in division (B), (F), or (L) of section 5709.20 of the Revised Code, or provide a copy of the application to, and obtain the opinion of, the director of development in the case of an application for an exempt facility described in division (D), (I), or (K) of section 5709.20 of the Revised Code. The opinion shall provide the commissioner with a recommendation of whether the property is primarily designed, constructed, installed, and used as an exempt facility. The applicant shall provide additional information upon request by the tax commissioner, the director of environmental protection, or the director of development, and allow them to inspect the property listed in the application for the purposes of sections 5709.20 to 5709.27 of the Revised Code. The tax commissioner shall provide to the applicant a copy of the opinion issued by either the director of environmental protection or the director of the department of development.

(B) The opinions of the director of the environmental protection agency and the director of development under division (A) of this section or division (C)(4) of section 5709.22 of the Revised Code are not final actions or orders subject to appeal.

Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. One-half of the fee received with applications for exempt facility certificates shall be credited to the exempt facility administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering sections 5709.20 to 5709.27 of the Revised Code. If the director of environmental protection is required to provide the opinion for an application, one-half of the fee shall be credited to the clean air fund created in section 3704.035 of the Revised Code for use in administering section

5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. If the application is for an industrial water pollution control facility, one-half of the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of development is required to provide the opinion for an application, one-half of the fee for each exempt facility application shall be credited to the exempt facility inspection fund, which is hereby created in the state treasury, for appropriation to the department of development for use in administering section 5709.211 of the Revised Code.

An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is not issued or is withdrawn. Any application submitted without payment of the fee shall be deemed incomplete until the fee is paid.

(B) The application fee imposed under division (A) of this section for a jointly owned facility shall be equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars for each facility that is the subject of the application.

Sec. 5709.22. Before issuing any certificate the tax commissioner shall give notice in writing by mail to the auditor of the county in which such facilities are located, and shall afford to the applicant and to the auditor an opportunity for a hearing. On like notice to the applicant and opportunity for a hearing, the commissioner shall on his (A) After receiving an opinion from the director of environmental protection or the director of development, the tax commissioner shall promptly ascertain if an application filed under section 5709.21 of the Revised Code shall be allowed or disallowed in whole or in part. The commissioner shall give written notice of the proposed finding to the applicant and the county auditor of the county in which the facility described in the application is located. Within sixty days after sending written notice of the proposed finding, the applicant or the county auditor may file a request for reconsideration, in writing, to the commissioner and may request that the commissioner conduct a hearing on the application. If no request for reconsideration is filed, the commissioner's proposed findings shall be final and, if applicable, the commissioner shall issue an exempt facility certificate, which shall not be subject to appeal pursuant to section 5717.02 of the Revised Code.

(B) If a reconsideration of the tax commissioner's proposed finding is requested by the applicant or the county auditor, the commissioner shall

notify the applicant and the auditor of the time and place of the hearing, which the commissioner may continue from time to time as the commissioner finds necessary. The commissioner also shall notify the environmental protection agency or department of development, as applicable, of the hearing. The environmental protection agency or the department of development shall participate in the hearing if requested in writing by the commissioner, the applicant, or the county auditor. After conducting the hearing, the commissioner shall issue a final determination, with a copy of it served on the applicant and applicable county auditors in the manner prescribed by section 5703.37 of the Revised Code. The final determination is subject to appeal pursuant to section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue, if applicable, the exempt facility certificate based on the outcome of the appeal.

(C) The tax commissioner, on the commissioner's own initiative or on complaint by the county auditor of the any county in which any property to which such air or noise pollution control the exempt facility certificate relates is located, shall revoke such air or noise pollution control certificate whenever any of the following appears the certificate, or modify it by restricting its operation, if it appears to the commissioner that any of the following has occurred:

(A)(1) The certificate was obtained by fraud or misrepresentation; (B)(2)

The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of air or noise pollution control facilities an exempt facility;

(C)(3) The structure or equipment or both property to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.

Provided, that where the circumstances so require, the commissioner in lieu of revoking such certificate may modify the same by restricting its operations as an exempt facility;

(4) The tax commissioner issued the certificate in error. As used in this section, "error" means any of the following:

(a) A clerical or mathematical mistake;

(b) When the commissioner agrees with an opinion from the director of environmental protection or the director of development that a certificate should not have been issued;

(c) When the tax commissioner determines that the issuance of the certificate may have been improper as the result of a final adjudication by the board of tax appeals, or by a court with jurisdiction on appeal from that

board, that is adverse to the original exempt status of the facility, regardless of whether the holder of the certificate was a party to such adjudication.

(D) If the revocation or modification of a certificate under division (C)(4) of this section is an action found to be frivolous for the purposes of section 5703.54 of the Revised Code the certificate holder may claim damages as provided under division (B) of that section.

~~On the mailing of notice of the action of the commissioner revoking or modifying an air or noise pollution control certificate as provided in section 5709.23 of the Revised Code, such~~ (E) Upon service of notice certificate to the holder of an exempt facility certificate, in the manner provided in section 5703.37 of the Revised Code, of the tax commissioner's revocation or modification of the certificate under division (C) of this section, the certificate shall cease to be in force or shall remain in force only as modified, as the case may require. The notice is subject to appeal under section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue a modified certificate, if applicable, and the holder of the certificate shall be allowed to claim a refund within one hundred eighty days, notwithstanding any other time limitation provided by law of the taxes paid as a result of the certificate being revoked or modified.

Sec. 5709.23. (A) As soon as is practicable after receiving an application for an exempt facility certificate, the tax commissioner shall provide a copy of the application and any accompanying documentation to the county auditor of the county in which the facility is located. The copy shall be accompanied by a statement showing an estimate of what the assessed value of the facility would be, based on the appropriate assessment percentage, if the facility were to be taxable, and an estimate of the taxes that would be chargeable against the facility computed on the basis of the rate of taxation in the taxing district in the year in which the application is received. Within sixty days after receiving such a statement, the county auditor shall issue a notice to the taxing authority of each taxing unit in which the facility is or is to be located. The notice shall state that an application for an exempt facility certificate has been filed for the facility; the estimated assessed value of the facility shown on the statement; the annual amount of taxes that would be charged and payable on that value at the current rate of taxation in effect in the taxing unit; and that, if approved, the application entitles the facility to exemption from taxation and the taxing unit may be required to refund any taxes on the facility accruing after the certificate becomes effective. The tax commissioner shall issue an amended statement if, after the original statement is issued, the estimate of such assessed value increases or decreases by more than ten per cent of the

estimated value shown on the most recently issued statement or amended statement, and the county auditor shall issue an amended notice reflecting such change.

(B) Upon request by the county auditor of the county in which the exempt facility described in the application is located, the tax commissioner shall provide the county auditor with any documents submitted with the opinion of the director of environmental protection or director of development, including a copy of opinion.

(C) Any documents, statements, and notices provided for under this section are solely for the purpose of notifying taxing authorities of the existence of an exempt facility application and the potential for a refund of taxes paid on an exempt facility before a tax exemption certificate is issued. Such documents, statements, and notices do not constitute an assessment that is subject to a petition for reassessment nor are such documents, statements, and notices appealable under section 5717.02 of the Revised Code by any person.

(D) The documents, statements, and notices provided by the tax commissioner under this section are subject to all applicable confidentiality provisions of law.

Sec. 5709.24. The tax commissioner may adopt rules to administer sections 5709.20 to 5709.27 of the Revised Code.

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ exempt facility certificate is issued ~~on a pollution control facility~~, the transfer of tangible personal property to the holder of the certificate, whether such transfer takes place before or after the issuance of the certificate, shall not be considered a "sale" of such tangible personal property for the purpose of the sales tax, or a "use" for the purpose of the use tax, if the tangible personal property is to be or was a material or part to be incorporated into an ~~air or noise pollution control~~ exempt facility as defined in section 5709.20 of the Revised Code.

(B) For the period subsequent to the effective date of an ~~air or noise pollution control~~ exempt facility certificate and continuing for so long as the certificate is in force, no ~~pollution control~~ exempt facility or certified portion thereof shall be considered to be either of the following:

- (1) An improvement on the land on which the ~~same~~ exempt facility is located for the purpose of real property taxation;
- (2) As "used in business" for the purpose of personal property taxation;
- (3) ~~As an asset of any corporation in determining the value of its issued and outstanding shares or the value of the property owned and used by it in this state for the purpose of the franchise tax.~~

(C)(1) The tax commissioner, upon receiving a properly completed application for an exempt facility certificate, may allow the applicant to claim the exemption provided by this section before the commissioner issues the certificate. The applicant is entitled to the exemption unless the commissioner notifies the applicant otherwise by serving notice upon the applicant in the manner prescribed by section 5703.37 of the Revised Code.

(2) A taxpayer whose tangible personal property is subject to taxation under Chapter 5727. of the Revised Code shall notify the commissioner in writing of any property the applicant does not want the commissioner to exclude from assessment. The notice shall be provided before the date the commissioner issues the preliminary assessment under section 5727.23 of the Revised Code.

(D)(1) Notwithstanding any other time limitations imposed by law, the commissioner may assess any additional tax or may assess any additional taxable property, including any applicable interest, on the denied portion of the applicant's claim for an exempt facility that the applicant claimed prior to the exempt facility certificate being issued or the application being denied. No assessment shall be made pursuant to this division after one hundred eighty days from the date the commissioner mails the exempt facility certificate or notice of the denial of the exempt facility certificate pursuant to section 5709.22 of the Revised Code. Nothing in this section shall prohibit an assessment that otherwise may be timely made by law.

(2) Assessments issued pursuant to division (D)(1) of this section shall be issued as amended preliminary assessment certificates under section 5711.31 of the Revised Code for personal property tax, as amended preliminary assessment certificates under section 5727.23 of the Revised Code for public utility tax, and as assessments under section 5733.11 of the Revised Code for corporation franchise tax, section 5739.13 of the Revised Code for sales tax, and section 5741.11 of the Revised Code for use tax, and are subject to the same appeal requirements as defined in those sections.

(3) Nothing in division (D) of this section allows the tax commissioner, after the expiration of the time limitation, to issue an assessment referenced in division (D)(2) of this section that increases any tax beyond the amount claimed by the applicant as an exempt facility.

(4) If an assessment is issued for only the denied portion of the application for an exempt facility, the only issue the applicant is permitted to raise on appeal of the assessment referenced in division (D)(2) of this section is that of the taxable property or transaction constituting the denied portion of the applicant's claim for an exempt facility.

(E) Except as otherwise provided in this division, no exemption for

additional property shall be claimed under this section after an exempt facility certificate has been issued for that facility unless the applicant files a new application under section 5709.21 of the Revised Code. The tax commissioner shall waive the requirement to file a new application under section 5709.21 of the Revised Code if the cost of the additional property, net of retirements for similar property, does not exceed five hundred thousand dollars during any calendar year. The fee imposed under section 5709.212 of the Revised Code for applications filed as a result of this division shall be five hundred dollars.

(F) If, as the result of a revaluation due to sale or bankruptcy or any other reason, the book value of property that is the subject of an exempt facility certificate is changed from the book value at the time of the original issuance of the certificate, the amount of exemption available to the owner is limited to the percentage resulting from the ratio of the historical cost of the property that is the subject of the exempt facility certificate to the historic cost of all tangible personal property and real property of the owner located at the same location as the property subject to the exempt facility certificate. If the result of using this ratio is greater than the original cost, then acceptable reasons for allowing such greater cost must be established with supporting documentation in order to qualify for the exemption above the original cost.

(G) After two years from the date the tax commissioner receives an application, the applicant may request in writing that the tax commissioner take final action on the pending application. Within ten days after receiving such a request, the tax commissioner shall issue a proposed finding, under section 5709.22 of the Revised Code, if the application is allowed in whole or in part. Otherwise, the tax commissioner shall issue a final determination denying the issuance of the certificate, which is a final determination appealable under section 5717.02 of the Revised Code.

Sec. 5709.26. When an ~~air or noise pollution control~~ exempt facility certificate is revoked ~~because obtained by fraud or misrepresentation or~~ modified for the reason stated in division (C)(1) of section 5709.22 of the Revised Code, all taxes ~~which that~~ would have been payable had no certificate been issued shall be assessed with ~~maximum~~ penalties and interest prescribed by law applicable thereto dating to when the exemption was first allowed. Notwithstanding any other time limitations imposed by law, if the certificate is revoked or modified under division (C)(2), (3), or (4) of section 5709.22 of the Revised Code, all taxes that would have been payable had no certificate existed as of the first day of January of the calendar year in which the certificate was revoked or modified are subject to

assessment.

Sec. 5709.27. In the event of the sale, lease, or other transfer of an ~~air or noise pollution control~~ exempt facility, not involving a different location or use, the holder of an ~~air or noise pollution control~~ the exempt facility certificate ~~for such facility may~~ shall transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on ~~such~~ the facility. The transferee shall become the holder of the certificate and shall have all the rights to exemption from taxes ~~which were~~ granted to the former holder or holders, effective as of the date of transfer of the facility or the date of transfer of the certificate, whichever is earlier. The transferee shall promptly give written notice of the effective date of the transfer, together with a copy of the instrument of transfer, to the tax commissioner and the county auditor of the county in which the facility is located. Upon request, the commissioner may provide the transferee with any information the commissioner possesses related to the issuance of the exempt facility certificate.

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area or in a city designated as an urban cluster in a rural statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 1990, decreased by at least ten per cent between the years 1970 and 1990;

(f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as:

(a) Being located within a county that contains a population of three

hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority work-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales, unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility

that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

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

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school

district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;
- (3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(U) "Environmentally contaminated" means that hazardous substances exist at a facility under conditions that have caused or would cause the facility to be identified as contaminated by the state or federal environmental protection agency. These may include facilities located at

sites identified in the master sites list or similar database maintained by the state environmental protection agency if the sites have been investigated by the agency and found to be contaminated.

(V) "Remediate" means to make expenditures to clean up an environmentally contaminated facility so that it is no longer environmentally contaminated that equal at least ten per cent of the real property market value of the facility prior to such expenditures as determined for the purposes of property taxation.

(W) "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section, except that it is used with respect to an enterprise rather than a taxpayer.

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a central city of a metropolitan statistical area, or in a city designated as an urban cluster in a rural statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby

certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to this division applies to

inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent. For the purpose of obtaining such approval, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the

legislative authority.

(2) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before ~~June 30, 2004~~ October 15, 2009, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division

(B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this division, if the legislative authority revokes its designation of a zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the

value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise

at the completion of the internship.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code. Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before ~~June 30, 2004~~ October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the

enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed ten, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion

is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent. For the purpose of obtaining such approval, the board of commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of commissioners not later than fourteen days prior to the date stipulated by the board of commissioners as the date upon which approval of the agreement is to be formally considered by the board of commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before ~~June 30, 2004~~ October 15, 2009, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this paragraph, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives

offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a central city of a metropolitan statistical area or designated as an urban cluster in a rural statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3)(a) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of

the Revised Code.

(b) The legislative authority of a city designated as an urban cluster in a rural statistical area that has, pursuant to this section, as amended by H.B. 95 of the 125th general assembly, designated one or more areas in the city as a proposed enterprise zone, shall not enter into an agreement under this section unless it has petitioned the director and the director has certified the proposed enterprise zone under division (A)(3)(a) of this section.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division

(B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 15, 2009, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.64. (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, it may apply, on or before the thirtieth day of April of that year, to the director of development, on a form prescribed by the director, for a tax incentive qualification certificate. The enterprise qualifies for an initial certificate if, on or before the last day of the calendar year immediately preceding that in which application is made, it satisfies all of the following requirements:

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to the agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code.

(2) The enterprise has hired new employees to fill nonretail positions at the facility, at least twenty-five per cent of whom at the time they were employed were at least one of the following:

(a) Unemployed persons who had resided at least six months in the county in which the enterprise's project site is located;

(b) JPTA eligible employees who had resided at least six months in the

county in which the enterprise's project site is located;

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located;

(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located;

(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located.

The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility.

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the enterprise in the municipal corporation during each period of the calendar year immediately preceding the calendar year in which application is made must exceed only the maximum number of positions attributable to the enterprise in each corresponding period of the calendar year immediately preceding the first year the enterprise satisfies the requirements of divisions (A)(1) and (2) of this section. The director of development shall, by rule, prescribe methods for determining whether an enterprise is engaged in a seasonal business and for determining the length of the corresponding periods to be compared.

(4) The enterprise has not closed or reduced employment at any place of business in the state for the primary purpose of establishing, expanding, renovating, or occupying a facility. The legislative authority of any municipal corporation or the board of county commissioners of any county that concludes that an enterprise has closed or reduced employment at a place of business in that municipal corporation or county for the primary purpose of establishing, expanding, renovating, or occupying a facility in a

zone may appeal to the director to determine whether the enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and make such a determination before issuing an initial or renewal tax incentive qualification certificate under this section.

Within sixty days after receiving an application under this division, the director shall review, investigate, and verify the application and determine whether the enterprise qualifies for a certificate. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section, and shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise qualifies for a certificate. If the director finds the enterprise qualified, the director shall issue a tax incentive qualification certificate, which shall bear as its date of issuance the thirtieth day of June of the year of application, and shall state that the applicant is entitled to receive, for the taxable year that includes the certificate's date of issuance, the tax incentives provided under section 5709.65 of the Revised Code with regard to the facility to which the certificate applies. If an enterprise is issued an initial certificate, it may apply, on or before the thirtieth day of April of each succeeding calendar year for which it has been granted an incentive under an agreement entered pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised Code, for a renewal certificate. Subsequent to its initial certification, the enterprise qualifies for up to three successive renewal certificates if, on or before the last day of the calendar year immediately preceding that in which the application is made, it satisfies all the requirements of divisions (A)(1) to (4) of this section, and neither the zone's designation nor the zone's certification has been revoked prior to the fifteenth day of June of the year in which the application is made. The application shall include an affidavit executed by the applicant verifying that the enterprise satisfies the requirements of division (A)(2) of this section. An enterprise with ten or more supervisory personnel at the facility to which a certificate applies qualifies for any subsequent renewal certificates only if it meets all of the foregoing requirements and, in addition, at least ten per cent of those supervisory personnel are employees who, when first hired by the enterprise, satisfied at least one of the criteria specified in divisions (A)(2)(a) to (e) of this section. If the enterprise qualifies, a renewal certificate shall be issued bearing as its date of issuance the thirtieth day of June of the year of application. The director shall send copies of the initial certificate, and each renewal certificate, by certified mail, to the enterprise, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in

which the facility to which the certificate applies is located.

(B) If the director determines that an enterprise is not qualified for an initial or renewal tax incentive qualification certificate, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination. Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's qualification for a certificate. If the enterprise is found to be qualified, the director shall proceed in the manner provided under division (A) of this section. If the enterprise is found to be unqualified, the director shall send notice of this finding, by certified mail, to the applicant, the tax commissioner, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have applied is located. The director's redetermination that an enterprise is unqualified may be appealed to the board of tax appeals in the manner provided under section 5717.02 of the Revised Code.

Sec. 5711.02. Except as otherwise provided by section 5711.13 of the Revised Code, each year, beginning in tax year 2004, each taxpayer having taxable personal property with an aggregate taxable value in excess of ten thousand dollars shall make a return, annually, to the county auditor of each county in which any taxable property, which the taxpayer must return, is required by this chapter to be listed and. The taxpayer shall truly and correctly list therein on the return all taxable property so required to be listed, including property exempt under division (C)(3) of section 5709.01 of the Revised Code. Such returns shall be made on the blanks prescribed by the tax commissioner, which the county auditor shall supply at his the auditor's office along with blanks of the kind required for the county supplemental return required by section 5711.131 of the Revised Code for the use of taxpayers. The county auditor shall mail or distribute such blanks prior to the fifteenth day of February to all persons known to him the auditor to be taxpayers and to all persons to whom the commissioner may direct blanks of either type to be mailed or distributed, and he. The county auditor may place listing and county supplemental blanks at convenient places in his the county. The failure of a taxpayer to receive or procure blanks shall not excuse him the taxpayer from making any return or county supplemental

return. The individual required to make the return shall furnish all statements and documents, give all information required, answer all questions asked on the required blanks, and subscribe to the truth and correctness of all matters contained therein.

Sec. 5711.13. A Beginning in tax year 2004, each taxpayer having taxable property with an aggregate taxable value in excess of ten thousand dollars and required to be listed in more than one county shall make a combined return to the tax commissioner listing all its taxable property in this state, in conformity with sections 5711.01 to 5711.36 of the Revised Code, including property exempt under division (C)(3) of section 5709.01 of the Revised Code, but ~~# the taxpayer~~ shall not assign its property of the kinds mentioned in section 5709.02 of the Revised Code to any particular taxing district or county. The tax commissioner shall assess the personal property of such taxpayer in the several taxing districts in which it is required by to be assessed under sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ and shall issue assessment certificates therefor to the proper county auditors at the time and in the manner required by section 5711.25 of the Revised Code. All other property of such taxpayer required to be so listed shall be entered on the intangible property tax list in the office of the treasurer of state, and ~~taxed~~ shall be subject to taxation under section 5707.03 of the Revised Code. The commissioner shall assess all other property of each such taxpayer and, on or before the second Monday of August annually, shall certify the total value or amount of each kind thereof to the treasurer of state, who shall enter the value or amount on the intangible property tax list in ~~his~~ the treasurer of state's office in the manner provided in sections 5725.01 to 5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the Revised Code shall apply to and govern such taxpayer, its proper officers and representatives, the commissioner, and the county auditor as to all proceedings in the assessment of the property of such taxpayer.

Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding for the full calendar year next preceding the date of listing, except shares of

stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the year immediately succeeding their issuance. If such shares bear dividends the first calendar year after their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, it shall be deemed that the nondelinquent intangible property tax pursuant to division (A) of section 5707.04 of the Revised Code was paid on those dividends paid that first calendar year after the issuance of the shares.

(B)(1) Boilers, machinery, equipment, and personal property the true value of which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)(a), (b), and (c) of this section.

(a) Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate in division (F) of this section;

(b) Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(c) Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

(2) Personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is

required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

(C)(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or processing and for storage only and for shipment outside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is not used in business in this state for property tax purposes.

(D)(1) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product described in division (D)(1) of this section is not used in business in this state for property tax purposes.

(4) As used in division (D) of this section:

(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;

(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.

(E) Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (A) of section 5711.16 of the Revised Code, except property described in division (C) or (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at the rate of twenty-five per cent of its true value in money until reduced to zero in accordance with the following schedule:

(1) Beginning in tax year 2002 and for each of tax years 2003, and 2004, ~~2005, and 2006~~, subtract one percentage point from the rate at which the property was required to be listed and assessed in the preceding year, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible

personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year. ~~For purposes of this division, total statewide collection of tangible personal property taxes excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code.~~

(2) ~~In tax year 2007, the assessment rate shall be the lesser of twenty-four per cent or one percentage point less than the rate at which property was required to be listed and assessed the preceding year. Each tax year thereafter years 2005 and 2006, the assessment rate shall be reduced by one two percentage point until it equals zero per cent not later than tax year 2031 points, if the total statewide collection of tangible personal property taxes for the second preceding year exceeded the total statewide collection of tangible personal property taxes for the third preceding year. If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~

(3) For tax year 2007 and each tax year thereafter, the assessment rate shall be reduced by two percentage points. During and after the tax year that the assessment rate equals zero, the property described in division (E) of this section shall not be listed for taxation.

Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code.

(F) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate of twenty-five per cent of its true value in money.

Sec. 5711.27. No taxpayer shall fail to make a return within the time prescribed by law, or as extended pursuant to section 5711.04 of the Revised Code, nor fail to list in a return or disclose on an accompanying balance sheet or in other information filed with the return any item of taxable property ~~which he the taxpayer is required by to list in the return under sections 5711.01 to 5711.36 of the Revised Code, to list therein.~~

If any taxpayer ~~does so fail the following shall apply:~~

~~(A) In the case of a taxpayer who fails to make a timely return, the~~

assessor shall add to the taxpayer's assessment as a penalty, one-half of the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code. If the taxpayer's taxable value that is exempt from taxation under division (C)(3) of section 5709.01 of the Revised Code is located in more than one taxing district, the penalty assessment shall be applied among taxing districts as if only five thousand dollars, or one-half of the taxpayer's taxable valuation, whichever is less, ~~had been exempt from taxation under such division.~~

~~(B) In the case of a taxpayer who fails to make a timely return, or fails to list or disclose any item he the taxpayer is required to return, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list, or disclose and to any amount added under division (A) of this section, a penalty of up to fifty per cent thereof of the assessment;~~ but if such taxpayer makes, within sixty days after the expiration of the time prescribed by such sections, a return or an amended or supplementary return and lists therein or discloses on an accompanying balance sheet or in other information filed with the return all items of taxable property ~~which he the taxpayer~~ is required by such sections to list, and in all cases in which the taxpayer's only default is ~~his the~~ failure to pay the amounts specified in section 5719.02 of the Revised Code within the time therein specified, such penalty shall be five per cent of the assessment, and, if the assessment certificate has been issued, an amended assessment certificate shall be issued and substituted therefor.

~~Either or both of the penalties~~ The penalty provided in this section may be abated in whole or in part by the assessor when it is shown that such failure is due to reasonable cause. The penalty assessment shall be entered on the proper tax list and duplicate, and taxes shall be levied thereon the same as on the assessment itself.

~~If any taxpayer does so fail with respect to a return required to be filed for tax year 1982 or any prior year, the assessor shall add to the assessment of each class or item of taxable property which the taxpayer failed to return, list or disclose in addition to the penalties provided by law, an additional charge at the rate of one-half of one per cent per month from the date such property should have been returned or disclosed until the same is assessed, provided that said additional charge shall not be added to an assessment for any period of time in excess of ten years previous to the date of the assessment.~~

A fiduciary against whom a penalty assessment is made shall be personally liable for the amount of taxes levied in respect to such penalty assessment and any additional charge, and in case of fraud or intent to evade

taxes, such fiduciary shall have no right of reimbursement against the property held by ~~him~~ the fiduciary as such fiduciary nor against the person for whose benefit the same is held.

Sec. 5711.33. (A)(1) When a county treasurer receives a certificate from a county auditor pursuant to division (A) of section 5711.32 of the Revised Code charging the treasurer with the collection of an amount of taxes due as the result of a deficiency assessment, the treasurer shall immediately prepare and mail a tax bill to the taxpayer owing such tax. The tax bill shall contain the name of the taxpayer; the taxable value, tax rate, and taxes charged for each year being assessed; the total amount of taxes due; the final date payment may be made without additional penalty; and any other information the treasurer considers pertinent or necessary. Taxes due and payable as a result of a deficiency assessment, less any amount specifically excepted from collection under division (B) of section 5711.32 of the Revised Code, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of issuance of the certificate by the county auditor. The balance of taxes found due and payable after a final determination by the tax commissioner or a final judgment of the board of tax appeals or any court to which such final judgment may be appealed, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of certification by the auditor to the treasurer pursuant to division (C) of section 5711.32 of the Revised Code of such final determination or judgment. Such final dates for payment shall be determined and exhibited on the tax bill by the treasurer.

(2) If, on or before the sixtieth day following the date of a certification of a deficiency assessment under division (A) of section 5711.32 of the Revised Code or of a certification of a final determination or judgment under division (C) of section 5711.32 of the Revised Code, the taxpayer pays the full amount of taxes and interest due at the time of the receipt of certification with respect to that assessment, determination, or judgment, no interest shall accrue or be charged with respect to that assessment, determination, or judgment for the period that begins on the first day of the month in which the certification is made and that ends on the last day of the month preceding the month in which such sixtieth day occurs.

(B) When the taxes charged, as mentioned in division (A) of this section, are not paid within the time prescribed by such division, a penalty of ten per cent of the amount due and unpaid and interest for the period described in division (A)(2) of this section shall accrue at the time the treasurer closes the treasurer's office for business on the last day so

prescribed, but if the taxes are paid within ten days subsequent to the last day prescribed, the treasurer shall waive the collection of and the auditor shall remit one-half of the penalty. The treasurer shall not thereafter accept less than the full amount of taxes and penalty except as otherwise authorized by law. Such penalty shall be distributed in the same manner and at the same time as the tax upon which it has accrued. The whole amount collected shall be included in the next succeeding settlement of appropriate taxes.

(C) When the taxes charged, as mentioned in division (A) of this section, remain unpaid after the final date for payment prescribed by such division, such charges shall be deemed to be delinquent taxes. The county auditor shall cause such charges, including the penalty that has accrued pursuant to this section, to be added to the delinquent tax duplicate in accordance with section 5719.04 of the Revised Code.

(D) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under division (B) of this section or division (C) of section 5719.03 of the Revised Code for the late payment of taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates ~~to the satisfaction of the auditor~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) In cases other than those described in divisions (D)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(E) The taxpayer, upon application within sixty days after the mailing of the county auditor's decision, may request the tax commissioner to review

the denial of the remission of a penalty by the county auditor. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the taxpayer and to the county treasurer and county auditor, who shall correct the tax list and duplicate accordingly. The commissioner ~~shall~~ may issue orders and instructions for the uniform implementation of this section by all county auditors and county treasurers, and such orders and instructions shall be followed by such officers.

Sec. 5713.07. The county auditor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list pertinent descriptions of all burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, real property used exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, ~~and~~ public buildings and property used exclusively for any public purpose, and any other property, with the lot or tract of land on which such house, institution, ~~or~~ public building, or other property is situated, and which ~~are exempt~~ have been exempted from taxation by either the tax commissioner under section 5715.27 of the Revised Code or by the housing officer under section 3735.67 of the Revised Code. ~~He~~ The auditor shall value such houses, buildings, property, and lots and tracts of land at their taxable value in the same manner as ~~he~~ the auditor is required to value other real property, designating in each case the township, municipal corporation, and number of the school district, or the name or designation of the school, religious society, or institution to which each house, lot, or tract belongs. If such property is held and used for other public purposes, ~~he~~ the auditor shall state by whom or how it is held.

Sec. 5713.08. (A) The county auditor shall make a list of all real and personal property in the auditor's county, including money, credits, and investments in bonds, stocks, or otherwise, which is exempted from taxation. Such list shall show the name of the owner, the value of the property exempted, and a statement in brief form of the ground on which such exemption has been granted. It shall be corrected annually by adding thereto the items of property which have been exempted during the year, and by striking therefrom the items which in the opinion of the auditor have lost their right of exemption and which have been reentered on the taxable list. No additions shall be made to such exempt lists and no additional items of property shall be exempted from taxation without the consent of the tax

commissioner as is provided for in section 5715.27 of the Revised Code, ~~but when or without the consent of the housing officer under section 3735.67 of the Revised Code.~~ When any personal property or endowment fund of an institution has once been held by the commissioner to be properly exempt from taxation, it is not necessary to obtain the commissioner's consent to the exemption of additional property or investments of the same kind belonging to the same institution, but such property shall appear on the abstract filed annually with the commissioner. The commissioner may revise at any time the list in every county so that no property is improperly or illegally exempted from taxation. The auditor shall follow the orders of the commissioner given under this section. An abstract of such list shall be filed annually with the commissioner, on a form approved by the commissioner, and a copy thereof shall be kept on file in the office of each auditor for public inspection.

The commissioner shall not consider an application for exemption of property unless the application has attached thereto a certificate executed by the county treasurer certifying one of the following:

(1) That all taxes, assessments, interest, and penalties levied and assessed against the property sought to be exempted have been paid in full to the date upon which the application for exemption is filed, except for such taxes, interest, and penalties that may be remitted under division (B) of this section;

(2) That the applicant has entered into a valid delinquent tax contract with the county treasurer pursuant to division (A) of section 323.31 of the Revised Code to pay all of the delinquent taxes, assessments, interest, and penalties charged against the property, except for such taxes, interest, and penalties that may be remitted under division (B) of this section. If the auditor receives notice under section 323.31 of the Revised Code that such a written delinquent tax contract has become void, the auditor shall strike such property from the list of exempted property and reenter such property on the taxable list. If property is removed from the exempt list because a written delinquent tax contract has become void, current taxes shall first be extended against that property on the general tax list and duplicate of real and public utility property for the tax year in which the auditor receives the notice required by division (A) of section 323.31 of the Revised Code that the delinquent tax contract has become void or, if that notice is not timely made, for the tax year in which falls the latest date by which the treasurer is required by such section to give such notice. A county auditor shall not remove from any tax list and duplicate the amount of any unpaid delinquent taxes, assessments, interest, or penalties owed on property that is placed on

the exempt list pursuant to this division.

(3) That a tax certificate has been issued under section 5721.32 or 5721.33 of the Revised Code with respect to the property that is the subject of the application, and the tax certificate is outstanding.

(B) Any taxes, interest, and penalties which have become a lien after the property was first used for the exempt purpose, but in no case prior to the date of acquisition of the title to the property by the applicant, may be remitted by the commissioner, except as is provided in division (A) of section 5713.081 of the Revised Code.

(C) Real property acquired by the state in fee simple is exempt from taxation from the date of acquisition of title or date of possession, whichever is the earlier date, provided that all taxes, interest, and penalties as provided in the apportionment provisions of section 319.20 of the Revised Code have been paid to the date of acquisition of title or date of possession by the state, whichever is earlier. The proportionate amount of taxes that are a lien but not yet determined, assessed, and levied for the year in which the property is acquired, shall be remitted by the county auditor for the balance of the year from date of acquisition of title or date of possession, whichever is earlier. This section shall not be construed to authorize the exemption of such property from taxation or the remission of taxes, interest, and penalties thereon until all private use has terminated.

Sec. 5713.081. (A) No application for real property tax exemption and tax remission shall be filed with, or considered by, the tax commissioner in which tax remission is requested for more than three tax years, and the commissioner shall not remit more than three years' ~~delinquent~~ taxes, penalties, and interest.

(B) All taxes, penalties, and interest, that have been delinquent for more than three years, appearing on the general tax list and duplicate of real property which have been levied and assessed against parcels of real property owned by the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership, shall be collected by the county auditor of the county where the real property is located. Such ~~official~~ auditor shall deduct from each distribution made by ~~him~~ the auditor, the amount necessary to pay the tax delinquency from any revenues or funds to the credit of the state, any political subdivision, or any other entity whose ownership of real property would constitute public ownership thereof, passing under ~~his~~ the auditor's control, or which come into ~~his~~ the auditor's possession, and such deductions shall be made on a continuing basis until all delinquent taxes, penalties, and interest noted in this section have been paid.

(C) As used in division (B) of this section, "political subdivision" includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.

Sec. 5713.082. (A) Whenever the county auditor reenters an item of property to the tax list as provided in section 5713.08 of the Revised Code and there has been no conveyance of the property between separate entities, the auditor shall send notice by certified mail to the owner of the property that it is now subject to property taxation as a result of such action. The auditor shall send the notice at the same time ~~he~~ the auditor certifies the real property tax duplicate to the county treasurer. The notice shall describe the property and indicate that the owner may reapply for tax exemption by filing an application for exemption as provided in section 5715.27 of the Revised Code, and that failure to file such an application within the proper time period will result in the owner having to pay the taxes even if the property continued to be used for an exempt purpose.

(B) If the auditor failed to send the notice required by this section, and if the owner of the property subsequently files an application for tax exemption for the property for the current tax year, the tax commissioner may grant exemption to the property, and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties for each prior year since the property was reentered on the tax list notwithstanding the provisions of division (A) of section 5713.081 of the Revised Code.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under

section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental trees, sod, or flowers where such activities produced an average yearly gross income of at least twenty-five hundred dollars during such three-year period or where there is evidence of an anticipated gross income of such amount from such activities during the tax year in which application is made, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use;

(4) Tracts, lots, or parcels of land, or portions thereof ~~which~~ that, during the previous three consecutive calendar years have been designated as land devoted exclusively to agricultural use, but such land has been lying idle or fallow for up to one year and no action has occurred to such land that is either inconsistent with the return of it to agricultural production or converts the land devoted exclusively to agricultural use as defined in this section. Such land shall remain designated as land devoted exclusively to agricultural use provided that beyond one year, but less than three years, the landowner proves good cause as determined by the board of revision.

"Land devoted exclusively to agricultural use" includes tracts, lots, or parcels of land or portions thereof that are used for conservation practices, provided that the tracts, lots, or parcels of land or portions thereof comprise twenty-five per cent or less of the total of the tracts, lots, or parcels of land that satisfy the criteria established in division (A)(1), (2), or (4) of this section together with the tracts, lots, or parcels of land or portions thereof that are used for conservation practices.

(B) "Conversion of land devoted exclusively to agricultural use" means any of the following:

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted

exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes ~~which~~ that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate, or a buyer on a land installment contract.

(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.

Sec. 5715.27. (A) ~~The~~ Except as provided in section 3735.67 of the Revised Code, the owner of any property may file an application with the tax commissioner, on forms prescribed by the commissioner, requesting that such property be exempted from taxation and that ~~unpaid~~ taxes and penalties be remitted as provided in division (B) of section 5713.08 of the Revised Code.

(B) The board of education of any school district may request the tax commissioner to provide it with notification of applications for exemption from taxation for property located within that district. If so requested, the commissioner shall send to the board for the quarters ending on the last day of March, June, September, and December of each year, reports that contain sufficient information to enable the board to identify each property that is the subject of an exemption application, including, but not limited to, the name of the property owner or applicant, the address of the property, and the auditor's parcel number. The commissioner shall mail the reports on or about the fifteenth day of the month following the end of the quarter.

(C) A board of education that has requested notification under division (B) of this section may, with respect to any application for exemption of property located in the district and included in the commissioner's most recent report provided under that division, file a statement with the

commissioner and with the applicant indicating its intent to submit evidence and participate in any hearing on the application. The statements shall be filed prior to the first day of the third month following the end of the quarter in which that application was docketed by the commissioner. A statement filed in compliance with this division entitles the district to submit evidence and to participate in any hearing on the property and makes the district a party for purposes of sections 5717.02 to 5717.04 of the Revised Code in any appeal of the commissioner's decision to the board of tax appeals.

(D) The commissioner shall not hold a hearing on or grant or deny an application for exemption of property in a school district whose board of education has requested notification under division (B) of this section until the end of the period within which the board may submit a statement with respect to that application under division (C) of this section. The commissioner may act upon an application at any time prior to that date upon receipt of a written waiver from each such board of education, or, in the case of exemptions authorized by section 725.02, 1728.10, ~~3735.67~~, 5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request of the property owner. Failure of a board of education to receive the report required in division (B) of this section shall not void an action of the commissioner with respect to any application. The commissioner may extend the time for filing a statement under division (C) of this section.

(E) A complaint may also be filed with the commissioner by any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision against the continued exemption of any property granted exemption by the commissioner under this section.

(F) An application for exemption and a complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which exemption is requested or for which the liability of ~~any~~ the property to taxation in that year is requested. The commissioner shall consider such application or complaint in accordance with procedures established by the commissioner, determine whether the property is subject to taxation or exempt therefrom, and certify the commissioner's findings to the auditor, who shall correct the tax list and duplicate accordingly. If a tax certificate has been sold under section 5721.32 or 5721.33 of the Revised Code with respect to property for which an exemption has been requested, the tax commissioner shall also certify the findings to the county treasurer of the county in which the property is located.

(G) Applications and complaints, and documents of any kind related to applications and complaints, filed with the tax commissioner under this

section, are public records within the meaning of section 149.43 of the Revised Code.

(H) If the commissioner determines that the use of property or other facts relevant to the taxability of property that is the subject of an application for exemption or a complaint under this section has changed while the application or complaint was pending, the commissioner may make the determination under division (F) of this section separately for each tax year beginning with the year in which the application or complaint was filed or the year for which remission of ~~unpaid~~ taxes under division (B) of section 5713.08 of the Revised Code was requested, and including each subsequent tax year during which the application or complaint is pending before the commissioner.

Sec. 5715.39. (A) The tax commissioner may remit real property taxes, manufactured home taxes, penalties, and interest found by the commissioner to have been illegally assessed. The commissioner also may remit any penalty charged against any real property or manufactured or mobile home that was the subject of an application for exemption from taxation under section 5715.27 of the Revised Code if the commissioner determines that the applicant requested such exemption in good faith. The commissioner shall include notice of the remission in the commissioner's certification to the county auditor required under that section.

(B) The ~~commissioner, on application by a taxpayer~~ county auditor, upon consultation with the county treasurer, shall remit a penalty for late payment of any real property taxes or manufactured home taxes when:

~~(A)~~(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

~~(B)~~(2) In cases other than those described in division ~~(A)~~(B)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

~~(C)~~(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

~~(D)~~(4) The taxpayer demonstrates ~~to the satisfaction of the commissioner~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter

postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(C) The board of revision shall remit a penalty for late payment of any real property taxes or manufactured homes taxes if, in cases other than those described in division (B)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(D) The taxpayer, upon application within sixty days after the mailing of the county auditor's or board of revision's decision, may request the tax commissioner to review the denial of the remission of a penalty by the auditor or board. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal service shall be treated as the date of filing. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify the determination to the taxpayer, to the county treasurer, and to the county auditor, who shall correct the tax list and duplicate accordingly. The commissioner may issue orders and instructions for the uniform implementation of this section by all county boards of revision, county auditors, and county treasurers, and such orders and instructions shall be followed by such officers and boards.

(E) This section shall not provide to the taxpayer any remedy with respect to any matter that the taxpayer may be authorized to complain of under section 4503.06, 5715.19, 5717.02, and or 5727.47 of the Revised Code.

(F) Applications for remission, and documents of any kind related to those applications, filed with the tax commissioner under this section, are public records within the meaning of section 149.43 of the Revised Code, unless otherwise excepted under that section.

Sec. 5717.011. (A) As used in this chapter, "tax administrator" has the same meaning as in section 718.01 of the Revised Code.

(B) Appeals from a municipal board of appeal created under section 718.11 of the Revised Code may be taken by the taxpayer or the tax administrator to the board of tax appeals or may be taken by the taxpayer or the tax administrator to a court of common pleas as otherwise provided by law. If the taxpayer or the tax administrator elects to make an appeal to the board of tax appeals or court of common pleas, the appeal shall be taken by the filing of a notice of appeal with the board of tax appeals or court of common pleas, the municipal board of appeal, and the opposing party. The notice of appeal shall be filed within sixty days after the day the appellant

receives notice of the decision issued under section 718.11 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the decision issued under section 718.11 of the Revised Code and shall specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) Upon the filing of a notice of appeal with the board of tax appeals, the municipal board of appeal shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper.

(D) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

Sec. 5717.03. (A) A decision of the board of tax appeals on an appeal filed with it pursuant to section 5717.01, 5717.011, or 5717.02 of the Revised Code shall be entered of record on the journal together with the date when the order is filed with the secretary for journalization.

(B) In case of an appeal from a decision of a county board of revision, the board of tax appeals shall determine the taxable value of the property whose valuation or assessment by the county board of revision is complained of, or in the event the complaint and appeal is against a discriminatory valuation, shall determine a valuation which shall correct such discrimination, and shall determine the liability of the property for taxation, if that question is in issue, and its the board of tax appeals' decision and the date when it was filed with the secretary for journalization

shall be certified by ~~it~~ the board by certified mail to all persons who were parties to the appeal before ~~it~~ the board, to the person in whose name the property is listed, or sought to be listed, if such person is not a party to the appeal, to the county auditor of the county in which the property involved in the appeal is located, and to the tax commissioner.

In correcting a discriminatory valuation, the board of tax appeals shall increase or decrease the value of the property whose valuation or assessment by the county board of revision is complained of by a per cent or amount which will cause such property to be listed and valued for taxation by an equal and uniform rule.

(C) In the case of an appeal from a review, redetermination, or correction of a tax assessment, valuation, determination, finding, computation, or order of the tax commissioner, the order of the board of tax appeals and the date of the entry thereof upon its journal shall be certified by ~~it~~ the board by certified mail to all persons who were parties to the appeal before ~~it~~ the board, the person in whose name the property is listed or sought to be listed, if the decision determines the valuation or liability of property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or redetermination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board ~~its~~, the board's order and the date when ~~it~~ the order was filed by the secretary for journalization shall be certified by ~~it~~ the board by certified mail to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by ~~it~~ the board, and ~~its~~ the board's decision shall become final and conclusive for the

current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, ~~the board~~ may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order, ~~which~~. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

Sec. 5719.07. Subject to the rules prescribed by the tax commissioner, a county treasurer charged with the collection of delinquent taxes may issue a certificate of release of the lien provided for in section 5719.04 of the Revised Code if the amount secured thereby has been paid or omitted from the delinquent tax list and duplicate pursuant to section 5719.06 of the Revised Code. The treasurer shall issue a certificate of partial discharge of any part of the real property subject to the lien ~~if he finds~~ after finding that the value of the part of the property remaining subject to the lien is at least double the amount of the delinquent taxes and all prior liens upon such real property. Such certificate shall be filed and recorded with the county recorder of the county in which the notice of lien has been filed, for which recording the recorder shall charge a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5725.19. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a domestic insurance company under section 5725.18 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5725.18 of the Revised Code, the company may receive a refund equal to seventy-five per cent of such excess. If the

company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the ~~amount~~ amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due under section 5725.18 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A)(1) Except as provided in division (A)(2) of this section, fifty per cent in the case of a rural electric company;

(2) For tax year 2001 and thereafter, fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter, and ~~eighty-eight per cent~~ the following for all other taxable property;:

(1) For tax years prior to 2005, eighty-eight per cent;

(2) For tax year 2005, sixty-seven per cent;

(3) For tax year 2006, forty-six per cent;

(4) For tax year 2007 and thereafter, twenty-five per cent.

~~(C)(1) Except as provided in division (C)(2) of this section, eighty-eight per cent in the case of a natural gas company;~~

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five per cent in the case of a natural gas company.

(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;

(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty-eight per cent for all its other taxable property;

(2) For tax year 2001 and thereafter, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment

and eighty-eight per cent for all such other taxable property until January 1, 2002.

(F) Twenty-five per cent in the case of an interexchange telecommunications company;

(G) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.30. (A) Except as provided in divisions (B) ~~and~~, (C), and (D) of this section, each public utility, except railroad companies, shall be subject to an annual excise tax, as provided by sections 5727.31 to 5727.62 of the Revised Code, for the privilege of owning property in this state or doing business in this state during the twelve-month period next succeeding the period upon which the tax is based. The tax shall be imposed against each such public utility that, on the first day of such twelve-month period, owns property in this state or is doing business in this state, and the lien for the tax, including any penalties and interest accruing thereon, shall attach on such day to the property of the public utility in this state.

(B) An electric company's or a rural electric company's gross receipts received after April 30, 2001, are not subject to the annual excise tax imposed by this section.

(C) A natural gas company's gross receipts received after April 30, 2000, are not subject to the annual excise tax imposed by this section.

(D) A telephone company's gross receipts derived from amounts billed to customers after June 30, 2004, are not subject to the annual excise tax imposed by this section. Notwithstanding any other provision of law, gross receipts derived from amounts billed by a telephone company to customers prior to July 1, 2004, shall be included in the telephone company's annual statement filed on or before August 1, 2004, which shall be the last statement or report filed under section 5727.31 of the Revised Code by a telephone company. A telephone company shall not deduct from its gross receipts included in that last statement any receipts it was unable to collect from its customers for the period of July 1, 2003, to June 30, 2004.

Sec. 5727.32. (A) For the purpose of the tax imposed by section 5727.30 of the Revised Code, the statement required by section 5727.31 of the Revised Code shall contain:

- (1) The name of the company;
- (2) The nature of the company, whether a person, association, or corporation, and under the laws of what state or country organized;
- (3) The location of its principal office;
- (4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager;
- (5) The name and post-office address of the chief officer or managing

agent of the company in this state;

(6) The amount of the excise taxes paid or to be paid with the reports made during the current calendar year as provided by section 5727.31 of the Revised Code;

(7) In the case of telegraph ~~and telephone~~ companies:

(a) The gross receipts from all sources, whether messages, telephone tolls, rentals, or otherwise, for business done within this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:

(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;

(ii) The receipts of amounts billed on behalf of other entities;

(iii) ~~The receipts from sales to other telephone companies for resale;~~

(iv) ~~The receipts from sales to providers of telecommunications service for resale, receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, and receipts from private communications service.~~

~~As used in this division, "receipts from sales to other telephone companies for resale" and "receipts from sales to providers of telecommunications service for resale" include but are not limited to, receipts of carrier access charges. "Carrier access charges" means compensation paid to the taxpayer telephone company by another telephone company or by a provider of telecommunications service for the use of the taxpayer's facilities to originate or terminate telephone calls or telecommunications service.~~

(b) The total gross receipts for such period from business done within this state.

(8) In the case of all public utilities subject to the tax imposed by section 5727.30 of the Revised Code, except telegraph ~~and telephone~~ companies:

(a) The gross receipts of the company, actually received, from all sources for business done within this state for the year next preceding the first day of May, including the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding ~~all~~ both of the following:

(i) Receipts from interstate business or business done for the federal

government;

(ii) Receipts from sales to another public utility for resale, provided such other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code;

(iii) ~~Receipts from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~

(iv) ~~Receipts of an electric company, derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:~~

~~(I) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or in part during that period by an electric company.~~

~~(II) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than twenty per cent of the production facility and the rights to not less than twenty per cent of the production of that facility; and the person, or a successor or assign of the person, engaged primarily in a business other than providing electricity to others.~~

(v) Receipts of a combined company derived from operating as a natural gas company that is subject to the tax imposed by section 5727.24 of the Revised Code.

(b) The total gross receipts of the company, for the year next preceding the first day of May, in this state from business done within the state.

(B) The reports required by section 5727.31 of the Revised Code shall contain:

(1) The name and principal mailing address of the company;

(2) The total amount of the gross receipts excise taxes charged or levied as based upon its last preceding annual statement filed prior to the first day of January of the year in which such report is filed;

(3) The amount of the excise taxes due with the report as provided by section 5727.31 of the Revised Code.

Sec. 5727.33. (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts

actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), and (D), and (E) of this section. The gross receipts for the tax year of each telegraph ~~and telephone~~ company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.

(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:

(1) All receipts derived wholly from interstate business;

(2) All receipts derived wholly from business done for or with the federal government;

~~(3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~

(4) All receipts from the sale of merchandise;

~~(5)~~(4) All receipts from sales to other public utilities, except railroad, and telegraph, and telephone companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.

(C) In ascertaining and determining the gross receipts of a telephone company, ~~the following gross receipts are excluded:~~

~~(1) Receipts of amounts billed on behalf of other entities;~~

~~(2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;~~

~~(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service;~~

~~(4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;~~

~~(5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.~~

(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of electricity and other

services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived are excluded. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets ~~both of the following conditions:~~

~~(1) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or part during that period by an electric company.~~

~~(2) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than a twenty per cent ownership of the production facility and the rights to not less than twenty per cent of the production of that facility.~~

~~(E)(C)~~ In ascertaining and determining the gross receipts of a natural gas company, receipts billed on behalf of other entities are excluded. The tax imposed by section 5729.811 of the Revised Code, along with transportation and billing and collection fees charged to other entities, shall be included in the gross receipts of a natural gas company.

~~(F)(D)~~ In ascertaining and determining the gross receipts of a combined company subject to the tax imposed by section 5727.30 of the Revised Code, all receipts derived from operating as a natural gas company that are subject to the tax imposed by section 5727.24 of the Revised Code are excluded.

~~(G)(E)~~ Except as provided in division ~~(H)(F)~~ of this section, the amount ascertained by the commissioner under this section, less a deduction of twenty-five thousand dollars, shall be the taxable gross receipts of such companies for business done within this state for that year.

~~(H)(F)~~ The amount ascertained under this section, less the following deduction, shall be the taxable gross receipts of a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code for business done within this state:

(1) For a natural gas company that files quarterly returns of the tax imposed by section 5727.24 of the Revised Code, six thousand two hundred fifty dollars for each quarterly return;

(2) For a natural gas company that files an annual return of the tax imposed by section 5727.24 of the Revised Code, twenty-five thousand dollars for each annual return;

(3) For a combined company, twenty-five thousand dollars on the

annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

Sec. 5727.56. Any public utility whose articles of incorporation or license certificate to do or transact business in this state has expired or has been canceled or revoked by the secretary of state, as provided by law for failure to make any report or return or to pay any tax or fee, upon payment to the secretary of state of any additional fees and penalties required to be paid to ~~him~~ the secretary of state, and upon the filing with the secretary of state of a certificate from the tax commissioner that it has complied with all the requirements of law as to franchise or excise tax reports and paid all franchise or excise taxes, fees, or penalties due thereon for every year of its delinquency, and upon the payment to the secretary of state of an additional fee of ten dollars, shall be reinstated and again entitled to exercise its rights, privileges, and franchises in this state, and the secretary of state shall cancel the entry of cancellation or expiration to exercise its rights, privileges, and franchises. If the reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation or expiration of its license to do business, and it appears that articles of incorporation or license certificate have been issued to a corporation of the same or similar name, the applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name. A certificate of reinstatement may be filed in the county recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code.

If a domestic public utility applying for reinstatement has not previously designated an agent upon whom process may be served as required by section 1701.07 of the Revised Code, such public utility shall at the time of reinstatement and as a prerequisite thereto designate an agent in accordance with such section.

Any officer, shareholder, creditor, or receiver of any such public utility may at any time take all steps required by this section to effect such reinstatement, and in such case the designation of an agent upon whom process may be served shall not be a prerequisite to the reinstatement of the public utility.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school

district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount determined under division (D) of this section.

(8) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(11) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(13) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) The kilowatt-hour tax receipts fund is hereby created in the state

treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

(1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, shall be credited to the general revenue fund.

(2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code.

(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.

(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts to be credited under division (B)(7) of this section.

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as

follows:

(1) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty-one and three-tenths per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(3) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, an amount equal to the difference between the amount collected and ninety million dollars shall be transferred from the general revenue fund to each of the funds in divisions (C)(1) and (2) of this section in the same percentages as if that amount had been collected as taxes under section 5727.811 of the Revised Code. The tax commissioner shall certify to the director of budget and management the amounts that shall be transferred under this division.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) ~~and (2)~~ to ~~(3)~~ of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March

1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and

1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

(C) The department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first

and twenty-eighth days of February.

(2) From August 2002 through August 2006, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(3) From February 2007 through August 2016, one-half of the amount calculated for that calendar year under division (B)(3) of this section between the twenty-first and twenty-eighth days of August and of February.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has

expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in August 2002, and ending in February 2017, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of March, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one-half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed-rate levies in excess of twenty thousand dollars, or annual losses from any other fixed-rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.

(H) On the thirty-first day of July of 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised

Code in the case of a joint vocational school district.

If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.

(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

(J) If all or a part of the territory of a school district or joint vocational school district is merged with or transferred to another district, the department of education, in consultation with the tax commissioner shall adjust the payments made under this section to each of the districts in proportion to the tax value loss apportioned to the merged or transferred territory.

~~(J)~~(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the

committee shall cease to exist.

The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, for fixed-rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed-rate levy loss certified under division (A) of this section:

YEAR	PERCENTAGE
2002	100%
2003	100%
2004	100%
2005	100%
2006	100%
2007	80%
2008	80%
2009	80%
2010	80%
2011	80%
2012	66.7%
2013	53.4%
2014	40.1%
2015	26.8%
2016	13.5%
2017 and thereafter	0%

(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and

bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to 2016.

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy loss determined under division (H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. One-half of the amount certified under those divisions shall be paid between the twenty-first and twenty-eighth days of August and of February. The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Amounts distributed under division (E) of this section shall be credited to the general fund of the local taxing unit that receives them.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no

longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the tax commissioner shall distribute the excess to each county as follows:

(1) One-half shall be distributed to each county in proportion to each county's population.

(2) One-half shall be distributed to each county in the proportion that the amounts determined under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state.

The amounts distributed to each county under this division shall be distributed by the county treasurer to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county.

If, in the opinion of the tax commissioner, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

(F) From fiscal year 2002 through fiscal year 2016, if the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the difference between the total amount to be paid and the amount in the local government property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by

Amended Substitute House Bill No. 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5728.04. (A) It is unlawful for any person to operate a commercial car with three or more axles when operated alone or as part of a commercial tandem, a commercial car with two axles that is to be operated as part of a commercial tandem with a gross vehicle weight or a registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor when operated alone or as part of a commercial tractor combination or commercial tandem on a public highway ~~without~~ under either of the following circumstances:

(1) Without a ~~valid~~ fuel use permit for such commercial car or commercial tractor.

(2) With a suspended or surrendered fuel use permit for such commercial car or commercial tractor.

(B) The judge or magistrate of any court finding any person guilty of unlawfully operating a commercial car or commercial tractor as provided for in this section shall immediately notify the tax commissioner of such violation and shall transmit to the tax commissioner the name and the permanent address of the owner of the commercial car or commercial tractor operated in violation of this section, the registration number, the state of registration, and the certificate of title number of the commercial car or commercial tractor. The commercial car or commercial tractor involved in a violation of division (A)(1) or (2) of this section may be detained until a valid fuel use permit is obtained or reinstated.

Sec. 5728.06. (A) For the following purposes, an excise tax is hereby imposed on the use of motor fuel to operate on the public highways of this state a commercial car with three or more axles operated alone or as part of a commercial tandem, a commercial car with two axles operated as part of a commercial tandem having a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, or a commercial tractor operated alone or as part of a commercial tractor combination or commercial tandem: to provide revenue for maintaining the state highway system, to widen existing surfaces on such highways, to resurface such

highways, to enable the counties of the state properly to plan for, maintain, and repair their roads, to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing the same, and to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code. The tax is imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code plus an additional tax of three cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ provided that the additional tax of shall be reduced to two cents per gallon of motor fuel used before from July 1, 2004 through June 30, 2005, as determined by the gallons consumed while operated on the public highways of this state. Subject to section 5735.292 of the Revised Code, on and after July 1, 2005, the tax shall be imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code. Payment of the fuel use tax shall be made by the purchase of motor fuel within Ohio of such gallons as is equivalent to the gallons consumed while operating such a motor vehicle on the public highways of this state, or by direct remittance to the treasurer of state with the fuel use tax return filed pursuant to section 5728.08 of the Revised Code.

Any person subject to the tax imposed under this section who purchases motor fuel in this state for use in another state in excess of the amount consumed while operating such motor vehicle on the public highways of this state shall be allowed a credit against the tax imposed by this section or a refund equal to the motor fuel tax paid to this state on such excess. No such credit or refund shall be allowed for taxes paid to any state that imposes a tax on motor fuel purchased or obtained in this state and used on the highways of such other state but does not allow a similar credit or refund for the tax paid to this state on motor fuel purchased or acquired in the other

state and used on the public highways of this state.

The tax commissioner is authorized to determine whether such credits or refunds are available and to prescribe such rules as are required for the purpose of administering this chapter.

(B) Within sixty days after the last day of each month, the tax commissioner shall determine the amount of motor fuel tax allowed as a credit against the tax imposed by this section. The commissioner shall certify the amount to the director of budget and management and the treasurer of state, who shall credit the amount in accordance with section 5728.08 of the Revised Code from current revenue arising from the tax levied by section 5735.05 of the Revised Code.

(C) The owner of each commercial car and commercial tractor subject to sections 5728.01 to 5728.14 of the Revised Code is liable for the payment of the full amount of the taxes imposed by this section.

An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of this section, whoever violates any provision of sections 5728.01 to 5728.14 of the Revised Code, or any rule promulgated by the tax commissioner under the authority of any provision of those sections, for the violation of which no penalty is provided elsewhere, shall be fined not less than twenty-five nor more than one hundred dollars.

(2) Division (A)(1) of this section does not apply to the filing of any false or fraudulent return, application, or permit under section 5728.02, 5728.03, or 5728.08 of the Revised Code. The filing of any false or fraudulent return, application, or permit under any of those sections is a violation of section 2921.13 of the Revised Code.

(B)(1) Whoever violates division (A)(1) of section 5728.04 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates division (A)(2) of section 5728.04 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5729.08. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed on a foreign insurance company under section 5729.03 of the Revised Code. The credit shall be claimed in the calendar year specified in the certificate issued by the authority. If the company elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5729.03 of the Revised Code, the company may receive a refund equal to seventy-five per cent of such excess. If the company elected a nonrefundable credit, the amount of the credit shown on the certificate shall not exceed the amount of tax otherwise due. If the company elected a nonrefundable credit and the credit to which the company would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due under section 5729.03 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing ten calendar years, but the amount of any excess credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation

is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division

(B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the twenty consecutive taxable years after the taxable year in which the net operating

loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on

which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible

to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain

or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership. ~~The~~

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the ~~add-back~~ add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference

in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (C)(2) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," ~~and~~ "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including

gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(R) "Nonbusiness income" means all income other than business income.

Sec. 5733.05. As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is a financial institution shall be deemed to be the value as calculated in accordance with division (A) of this section. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is not a financial institution shall be deemed to be the values as calculated in accordance with divisions (B) and (C) of this section. Except as otherwise required by this section or section 5733.056 of the Revised Code, the value of a taxpayer's issued and outstanding shares of stock under division (A) or (C) of this section does not include any amount that is treated as a liability under generally accepted accounting principles.

(A) The total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves shall be determined as prescribed by section 5733.056 of the Revised Code for tax years 1998 and thereafter.

(B) The sum of the corporation's net income during the corporation's taxable year, allocated or apportioned to this state as prescribed in divisions (B)(1) and (2) of this section, and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 5733.059, and 5733.0510 of the Revised Code:

(1) The net nonbusiness income allocated or apportioned to this state as provided by section 5733.051 of the Revised Code.

(2) The amount of Ohio apportioned net business income ~~from sources other than those allocated under section 5733.051 of the Revised Code,~~

which shall be ~~determined~~ calculated by multiplying the corporation's net business income by a fraction. The numerator of the fraction is the sum of the following products: the property factor multiplied by twenty, the payroll factor multiplied by twenty, and the sales factor multiplied by sixty. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows, but the numerator and the denominator of the factors shall not include the portion of any property, payroll, and sales otherwise includible in the factors to the extent that the portion relates to, or is used in connection, with the production of nonbusiness income allocated under section 5733.051 of the Revised Code:

(a) The property factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the average value of the corporation's real and tangible personal property owned or rented, and used in the trade or business in this state during the taxable year, and the denominator of which the fraction is the average value of all the corporation's real and tangible personal property owned or rented, and used in the trade or business everywhere during such year. Real and tangible personal property used in the trade or business includes, but is not limited to, real and tangible personal property that the corporation rents, subrents, leases, or subleases to others if the income or loss from such rentals, subrentals, leases, or subleases is business income. There shall be excluded from the numerator and denominator of the ~~property factor~~ fraction the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to that section or former section 6111.31 of the Revised Code; and property used exclusively during the taxable year for qualified research.

(i) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals.

(ii) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the

taxable year, if reasonably required to reflect properly the average value of the corporation's property.

(b) The payroll factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the total amount paid in this state during the taxable year by the corporation for compensation, and the denominator of ~~which the fraction~~ is the total compensation paid everywhere by the corporation during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(i) Compensation means any form of remuneration paid to an employee for personal services.

(ii) Compensation is paid in this state if: (1) the recipient's service is performed entirely within this state, (2) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, (3) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(iii) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(c) Except as provided in section 5733.059 of the Revised Code, the sales factor is a fraction ~~the~~ computed as follows:

The numerator of which the fraction is the total sales in this state by the corporation during the taxable year, and the denominator of ~~which the fraction~~ is the total sales by the corporation everywhere during such year. In determining the numerator and denominator of the ~~sales factor fraction~~, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting corporation owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of

one or more financial institutions, receipts received by the reporting corporation from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of this section and section 5733.03 of the Revised Code, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Except as provided in section 5733.059 of the Revised Code, sales, other than sales of tangible personal property, are in this state if either:

- (i) The income-producing activity is performed solely in this state;
- (ii) The income-producing activity is performed both within and without this state and a greater proportion of the seller's income-producing activity is performed within this state than in any other state, based on costs of performance.

(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, a timely filed petition for reassessment, or a timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:

- (i) Separate accounting;
- (ii) The exclusion of any one or more of the factors;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's allocated or apportioned base in this state.

An alternative method will be effective only with approval by the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(e) The tax commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation's base, that apply to corporations engaged in

telecommunications.

~~(C)(1) Subject to divisions (C)(2) and (3) of this section, the~~ The total value, as shown on the books of each corporation that is not a qualified holding company, of the net book value of a the corporation's assets less the net carrying value of its liabilities, and excluding from the corporation's assets land devoted exclusively to agricultural use as of the first Monday of June in the corporation's taxable year as determined by the county auditor of the county in which the land is located pursuant to section 5713.31 of the Revised Code, and making any adjustment required by division (D) of this section. For the purposes of determining that total value, any reserves shown on the corporation's books shall be considered liabilities or contra assets, as the case may be, except for any reserves that are deemed appropriations of retained earnings under generally accepted accounting principles.

~~(2)(a)~~ The base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under division (C)(1) of this section by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) and (iii) of this section, and with regard to section 5733.052 of the Revised Code, but substituting "net worth" for "net income" wherever "net income" appears in division (B)(2)(c) in this section. For purposes of division (C)(2) of this section, the numerator and denominator of each of the fractions shall include the portion of any real and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with the production of, net nonbusiness income allocated under section 5733.051 of the Revised Code. Nothing in this division shall allow any amount to be included in the numerator or denominator more than once.

(D)(1) If, on the last day of the taxpayer's taxable year preceding the tax year, the taxpayer is a related member to a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year, or if, on the last day of the taxpayer's taxable year preceding the tax year, a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year is a related member to the taxpayer, then the taxpayer's total value for the purposes of division (C) of this section shall be adjusted by the qualifying amount. Except as otherwise provided under division (C)(2)(b)(D)(2) of this section, "qualifying amount" means the amount that, when added to the taxpayer's total value, and when subtracted from the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, or when subtracted from the taxpayer's total value and when added to the net carrying value of the

taxpayer's liabilities computed without regard to division ~~(C)(2)(D)~~ of this section, results in the taxpayer's debt-to-equity ratio equaling the debt-to-equity ratio of the qualifying controlled group on the last day of the taxable year ending prior to the first day of the tax year computed on a consolidated basis in accordance with general accepted accounting principles. For the purposes of division ~~(C)(2)(a)(D)(1)~~ of this section, the corporation's total value, after the adjustment required by that division, shall not exceed the net book value of the corporation's assets.

~~(b)(i)(2)(a)~~ The amount added to the taxpayer's total value and subtracted from the net carrying value of the taxpayer's liabilities shall not exceed the amount of the net carrying value of the taxpayer's liabilities owed to the taxpayer's related members.

~~(ii)(b)~~ A liability owed to the taxpayer's related members includes, but is not limited to, any amount that the corporation owes to a person that is not a related member if the corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) The base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C)(1) and ~~(2)(D)~~ of this section ~~by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) to (iv) of this section~~ but without regard to section 5733.052 of the Revised Code.

(4) For purposes of division ~~(C)(D)~~ of this section, "related member" has the same meaning as in ~~division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.~~

Sec. 5733.051. ~~Subject~~ For purposes of this section, "available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the report for the tax year immediately following the last day of the taxable year, and "modified qualifying controlled group" means that portion of a qualifying controlled group consisting of the corporation the sale of which resulted in the gain or loss described in division (E) of this section together with all members of the qualifying controlled group owned directly or indirectly by that corporation, or the corporation that directly paid the dividend or directly made the distribution described in division (F) of this section together with all members of the qualifying controlled group owned directly or indirectly by that corporation.

Subject to section 5733.0510 of the Revised Code, net nonbusiness

income of a corporation ~~subject to the tax imposed by section 5733.06 of the Revised Code~~ shall be allocated and apportioned to this state as follows:

(A) Net rents and royalties from real property located in this state are allocable to this state. Net rents and royalties from real property not located in this state are allocable outside this state.

(B) Net rents and royalties from tangible personal property, to the extent such property is utilized in this state, are allocable to this state ~~if the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code.~~ Net rents and royalties from tangible personal property, to the extent such property is utilized outside this state, are allocable outside this state.

(C) Capital gains and losses from the sale or other disposition of real property located in this state are allocable to this state. Capital gains and losses from the sale or other disposition of real property located outside this state are allocable outside this state.

(D) Capital gains and losses from the sale or other disposition of tangible personal property are allocable to this state ~~if the property had a situs in this state at the time of sale and the taxpayer is otherwise subject to the tax imposed by section 5733.06 of the Revised Code~~ to the extent such property was utilized in this state prior to the property's sale or other disposition. Capital gains and losses from the sale or other disposition of tangible personal property are allocable outside this state to the extent such property was utilized outside this state prior to the property's sale or other disposition.

(E) Capital gains and losses from the sale or other disposition of intangible property which may produce income enumerated in division (F)(1) of this section are allocable on the same basis as set forth in that division, substituting the day of the sale or disposition for the day on which the payor pays the dividend or makes the distribution, but if the location of the physical assets described in that division is not available to the taxpayer, such gains and losses are apportionable under division (I) of this section. Capital gains and losses from the sale or other disposition of all other intangible property are apportionable under division (I) of this section.

(F) "Dividends or distributions" to which this division refers are dividends directly or indirectly paid by or distributions directly or indirectly made by any person classified for federal income tax purposes as an association taxable as a corporation.

(1) Dividends or distributions which are not otherwise deducted or excluded from net income, other than dividends or distributions from a domestic international sales corporation, ~~are allocable~~ shall be allocated to

~~this state in accordance with the ratio of the book value of the physical assets of the payor of the dividends or distributions located in this state divided by the book value of the total physical assets of the payor located everywhere by multiplying such dividends and distributions by a fraction. The numerator of the fraction is the book value of the physical assets in this state of the payor or, if the payor is a member of a modified qualifying controlled group on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, the sum of the book values of the physical assets in this state of the payor and of all the other members of the modified qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution. The denominator of the fraction is the book value of the physical assets everywhere of the payor or, if the payor is a member of a modified qualifying controlled group on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, the sum of the book values of the physical assets everywhere of the payor and of all the other members of the modified qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution.~~ Dividends or distributions received from a domestic international sales corporation, or from a payor for which the location of whose physical assets described in this division is unavailable ~~not available~~ to the taxpayer, are apportionable under division (I) of this section.

(2) If the payor of a dividend or distribution, or if that payor and any members of the qualifying controlled group of which the payor is a member on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, separately or cumulatively own, directly or indirectly, on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution, more than fifty per cent of the equity of a pass-through entity, then for purposes of division (F)(1) of this section the payor and the other members are deemed to own the proportionate share of the physical assets that the pass-through entity directly or indirectly owns on the last day of the payor's fiscal or calendar year ending immediately prior to the day on which the payor pays the dividend or makes the distribution.

(3) For the purposes of division (F)(3) of this section, "upper level

pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity. For purposes of divisions (F)(1) and (2) of this section, an upper level pass-through entity is deemed to own, on the last day of the upper level pass-through entity's fiscal or calendar year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's fiscal or calendar year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's fiscal or calendar year in which or with which ends the fiscal or calendar year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower level pass-through entity is not available to the upper level pass-through entity, then for purposes of divisions (F)(1) and (2) of this section, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's fiscal or calendar year.

~~(G) Patent and copyright~~ Net rents, net royalties, and net technical assistance fees, not representing the principal source of gross receipts of the taxpayer, from intangible property are allocable to this state to the extent that the activity of the payor thereof giving rise to the payment takes place in this state. If the location of the a payor's activity is unavailable not available to the taxpayer, such corporation, the net rents, net royalties, and net technical assistance fees are allocable or apportionable under division (I) of this section.

~~(H)(1) The following amounts described in division (B)(5) of section 5747.20 of the Revised Code are allocable to this state:~~

(a) All lottery prize awards paid by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(b) All earnings, profit, income, and gain from the sale, exchange, or other disposition of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(c) All earnings, profit, income, and gain from the direct or indirect ownership of lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code;

(d) All earnings, profit, income, and gain from the direct or indirect interest in any right in or to any lottery prize awards paid or to be paid to any person by the state lottery commission pursuant to Chapter 3770. of the Revised Code.

(2) Lottery prize awards and related earnings, profit, income, or gain with respect to lotteries sponsored by persons or agencies outside this state shall be allocated outside this state.

(1) ~~Any~~ Every other item of net nonbusiness income, from sources other than those enumerated in divisions (A) to (H) of this section, is allocated entirely to this state except to the extent the allocation of such item of net nonbusiness income entirely to this state is not within the taxing power of this state under the Constitution of the United States. To the extent such allocation entirely to this state would not be within the taxing power of this state under the Constitution of the United States, such item of net nonbusiness income is apportionable to this state on the basis of the mechanism provided in division (B)(2) of section 5733.05 and in section 5733.057 of the Revised Code.

Sec. 5733.056. (A) As used in this section:

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began.

(2) "Borrower or credit card holder located in this state" means:

(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial domicile in this state; or

(b) A borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

(3) "Branch" means a "domestic branch" as defined in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(o), as amended.

(4) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in such employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, such as those employed in foreign countries, the determination of whether such payments would constitute gross income to such employees under the Internal Revenue Code shall be made as though such employees were subject to the Internal Revenue Code.

(5) "Credit card" means a credit, travel, or entertainment card.

(6) "Credit card issuer's reimbursement fee" means the fee a taxpayer

receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(7) "Deposits" has the meaning given in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), as amended.

(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property. "Gross rents" includes:

(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.

(d) The following are not included in the term "gross rents":

(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include debt obligations of subsidiaries, participations, syndications, and leases

treated as loans for federal income tax purposes. "Loan" does not include: properties treated as loans under section 595 of the Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depositor institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security; and other similar items.

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(13) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(14) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which the property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly (a) starts work and to which the employee customarily returns in order to receive instructions from the employer or (b) communicates with the employee's customers or other persons or (c) performs any other functions necessary to the exercise of the trade or profession at some other point or points.

(15) "Qualified institution" means a financial institution that on or after June 1, 1997:

(a)(i) Has consummated one or more approved transactions with insured banks with different home states that would qualify under section 102 of the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338;

(ii) Is a federal savings association or federal savings bank that has consummated one or more interstate acquisitions that result in a financial institution that has branches in more than one state; or

(iii) Has consummated one or more approved interstate acquisitions under authority of Title XI of the Revised Code that result in a financial institution that has branches in more than one state; and

(b) Has at least nine per cent of its deposits in this state as of the last day of June prior to the beginning of the tax year.

(16) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the taxpayer may claim depreciation for federal income tax purposes, or to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division (D) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to specific assets;

(2) Taxes due and payable during the year for which such report was

made;

(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;

(4) Good will, appreciation, and abandoned property as set up in the annual report of the financial institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.

(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:

(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies, of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(c) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of other financial institutions of which at least twenty-five per cent of the other financial institution's issued and outstanding common stock is owned by the financial institution by (2) the total assets of the financial institution as shown on its books. Division (B)(5)(c) of this section applies only with respect to such other financial institutions that for the tax year immediately following the taxpayer's taxable year will pay the tax imposed by division (D) of section 5733.06 of the Revised Code.

(6) Land that has been determined pursuant to section 5713.31 of the Revised Code by the county auditor of the county in which the land is located to be devoted exclusively to agricultural use as of the first Monday of June in the financial institution's taxable year.

(7) Property within this state used exclusively during the taxable year for qualified research as defined in section 5733.05 of the Revised Code.

(C) The base upon which the tax levied under division (D) of section 5733.06 of the Revised Code shall be computed by multiplying the value of a financial institution's issued and outstanding shares of stock as determined in division (B) of this section by a fraction. The numerator of the fraction is the sum of the following: the property factor multiplied by fifteen, the payroll factor multiplied by fifteen, and the sales factor multiplied by seventy. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by fifteen if the property factor has a denominator of zero, by fifteen if the payroll factor has a denominator of zero, and by seventy if the sales factor has a denominator of zero.

(D) A financial institution shall calculate the property factor as follows:

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the tax commissioner may require averaging on a more frequent

basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the tax commissioner or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner or the tax commissioner requires a different method of determining value.

(4)(a) The average value of real property and tangible personal property that the taxpayer has rented from another and is not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(b) Where the use of the general method described in division (D)(4)(a) of this section results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the tax commissioner or by the taxpayer when approved in writing by the tax commissioner. Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the tax commissioner or the tax commissioner requires a different method of valuation.

(5)(a) Except as described in division (D)(5)(b) of this section, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the load to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in division (D)(6)(a)(ii) of this section may be rebutted upon a showing by the tax commissioner, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan shall then be located within this state if (1) the taxpayer had a regular place of business within this state at the time the loan was made; and (2) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur within this state.

(b) In the case of a loan which is assigned by the taxpayer to a place without this state which is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile was within this state.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis and consideration shall be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) "Solicitation" is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business which the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation

occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) "Investigation" is the procedure whereby employees of the taxpayer determine the creditworthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed.

(iv) "Approval" is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) "Administration" is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(d) A loan or advance to a subsidiary corporation at least fifty-one per cent of whose common stock is owned by the financial institution shall be allocated in and out of the state by the application of a ratio whose numerator is the sum of the net book value of the subsidiary's real property owned in this state and the subsidiary's tangible personal property owned in this state and whose denominator is the sum of the subsidiary's real property owned wherever located and the subsidiary's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be

calculated by including the other corporation's real property and tangible personal property. The calculation of the ratio applies with respect to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of the common stock of that subsidiary.

(7) For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to division (D)(6) of this section.

(8) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(E) A financial institution shall calculate the payroll factor as follows:

(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid both within and without this state during the taxable year.

(2) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(a) The employee's services are performed entirely within this state.

(b) The employee's services are performed both within and without this state, but the service performed without this state is incidental to the employee's service within this state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(c) The employee's services are performed both within and without this state, and:

(i) The employee's principal base of operations is within this state; or

(ii) There is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(iii) The principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(F) A financial institution shall calculate the sales factor as follows:

(1) The sales factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the

denominator is the same as the method used in determining receipts for purposes of the numerator.

(2) The numerator of the sales factor includes receipts from the lease or rental of real property owned by the taxpayer if the property is located within this state, or receipts from the sublease of real property if the property is located within this state.

(3)(a) Except as described in division (F)(3)(b) of this section the numerator of the sales factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(b) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the sales factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this paragraph are included in the numerator of the sales factor if more than fifty per cent of the fair market value of the real property is located within this state. If more than fifty per cent of the fair market value of the real property is not located within any one state, then the receipts described in this paragraph shall be included in the numerator of the sales factor if the borrower is located in this state.

(b) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from the sale of

loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the

numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in divisions (F)(13)(a)(i) and (ii) of this section, the sales factor shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such

assets and activities.

(b) The numerator of the sales factor includes interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in division (F)(13)(a) of this section that are attributable to this state.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transaction, but excluding amounts described in division (F)(13)(b)(i) or (ii) of this section, attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible

personal property owned in this state and whose denominator is the sum of the net book value of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(v) For purposes of this division, average value shall be determined using the rules for determining the average value of tangible personal property set forth in division (D)(2) and (3) of this section.

(c) In lieu of using the method set forth in division (F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state, and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of

which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(14) The numerator of the sales factor includes all other receipts if either:

(a) The income-producing activity is performed solely in this state; or

(b) The income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

(G) A qualified institution may calculate the base upon which the fee provided for in division (D) of section 5733.06 of the Revised Code is determined for each tax year by multiplying the value of its issued and

outstanding shares of stock determined under division (B) of this section by a single deposits fraction whose numerator is the deposits assigned to branches in this state and whose denominator is the deposits assigned to branches everywhere. Deposits shall be assigned to branches in the same manner in which the assignment is made for regulatory purposes. If the base calculated under this division is less than the base calculated under division

(C) of this section, then the qualifying institution may elect to substitute the base calculated under this division for the base calculated under division (C) of this section. Such election may be made annually for each tax year on the corporate report. The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. The election is not irrevocable and it applies only to the specified tax year. Nothing in this division shall be construed to extend any statute of limitations set forth in this chapter.

(H) If the apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) Separate accounting;
- (2) The exclusion of any one or more of the factors;
- (3) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's value.

Sec. 5733.057. As used in this section, "adjusted qualifying amount" has the same meaning as in section 5733.40 of the Revised Code.

This section does not apply to divisions (E) and (F) of section 5733.051 of the Revised Code.

Except as otherwise provided in divisions (A) and (B) of section 5733.401 and in sections 5733.058 and 5747.401 of the Revised Code, in making all apportionment, allocation, income, gain, loss, deduction, tax, and credit computations under this chapter and under sections 5747.41 and 5747.43 of the Revised Code, each person shall include in that person's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, if any, apportionable income or loss, property, compensation, and sales, the person's entire distributive share or proportionate share of the items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales of any pass-through entity in

which the person has a direct or indirect ownership interest at any time during the pass-through entity's calendar or fiscal year ending within, or with the last day of the person's taxable year. A pass-through entity's direct or indirect distributive share or proportionate share of any other pass-through entity's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales shall be included for the purposes of computing the person's distributive share or proportionate share of the pass-through entity's items of business income, nonbusiness income, adjusted qualifying amounts, allocable income or loss, apportionable income or loss, property, compensation, and sales under this section. Those items shall be in the same form as was recognized by the pass-through entity.

Sec. 5733.059. (A) As used in this section:

(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.

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

(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:

(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with division (B) of this section. Any

remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situate the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the siting provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting;

(2) The exclusion of one or more additional siting factors that will fairly represent the taxpayer's and the related member's sales in this state;

(3) The inclusion of one or more additional siting factors that will fairly represent the taxpayer's and the related member's sales in this state.

The taxpayer's request shall be in writing and shall be filed with the report required by section 5733.02 of the Revised Code, a timely filed petition for reassessment, or a timely filed amended report. An alternative siting method shall be effective with the approval of the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(F) If the siting provisions of this section do not fairly represent activity in this state, the tax commissioner may promulgate rules to situate

sales using a methodology that fairly reflects sales in this state.

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 5703.56 of the Revised Code to the contrary, a person situsing a sale outside this state has the burden to establish by a preponderance of the evidence that the doctrines enumerated in ~~those sections~~ that section do not apply.

Sec. 5733.0511. (A) As used in this section:

(1) "Qualifying telephone company taxpayer" means either of the following:

(a) A telephone company, but only if the telephone company was subject to the tax imposed by section 5727.30 of the Revised Code for gross receipts received during the period from July 1, 2003, to June 30, 2004, and the telephone company's property subject to taxation under Chapter 5727. of the Revised Code for tax years 2003 through 2006 was assessed using the true value percentages provided for in division (B) of section 5727.111 of the Revised Code.

(b) Any taxpayer not described in division (A)(1)(a) of this section if a telephone company described in division (A)(1)(a) of this section transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization, or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue Code on account of a transfer as part of an entity organization or reorganization, or subsequent entity organization or reorganization.

(2) "Qualifying telephone company asset" means any asset shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles.

(3) "Net income" has the same meaning as in division (I) of section 5733.04 of the Revised Code.

(4) "Book-tax difference" means the difference, if any, between a qualifying telephone company asset's net book value shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles, and such asset's adjusted basis on December 31, 2003. The book-tax difference may be a negative number.

(5) Solely for purposes of division (A)(1)(a) of this section, "tax year" has the same meaning as used in section 5727.01 of the Revised Code.

(B) In computing net income under division (I) of section 5733.04 of the Revised Code, a qualifying telephone company taxpayer shall adjust net income to reflect a ten-year amortization of the book-tax difference for each

qualifying telephone company asset, in equal installments over each of the ten tax years beginning with 2010. If the net book value exceeds the adjusted basis of the asset as of December 31, 2003, net income shall be reduced in each of the ten years beginning with tax year 2010 by one-tenth of the book-tax difference. If the adjusted basis exceeds the net book value of the asset as of December 31, 2003, net income shall be increased in each of the ten years beginning with tax year 2010 by one-tenth of the absolute value of the book-tax difference. The adjustment to net income provided for by this division shall apply without regard to the disposal of those assets after December 31, 2003.

(C) The allocation and apportionment of this amortization of the book-tax difference under this section shall be governed by division (B) of section 5733.05 and by section 5733.051 of the Revised Code. The tax commissioner may prescribe rules regarding the apportionment of the amortization of the book-tax difference under this section.

(D) Nothing in this section shall allow for an adjustment more than once with respect to the same qualifying asset or allow more than one corporation to claim an adjustment with respect to the same qualifying telephone company asset.

Sec. 5733.06. The tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this section, except that the tax hereby charged each financial institution subject to this chapter shall be the amount computed under division (D) of this section:

(A) Except as set forth in division (F) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(B) Except as set forth in division (F) of this section, eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; or

(C)(1) Except as otherwise provided under division (G) of this section, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. For the purposes of division (C) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of an eligible corporation for tax year 2003 through tax year 2007, or of a qualified holding company, is zero.

(2) As used in division (C) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria:

(a) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code.

(b) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code.

(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

(1) For tax years prior to the 1999 tax year, fifteen mills;

(2) For the 1999 tax year, fourteen mills;

(3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for ~~all corporations~~ each corporation shall be ~~fifty dollars~~ as follows:

(1) One thousand dollars in the case of a corporation having gross receipts for the taxable year equal to at least five million dollars from activities within or outside this state or in the case of a corporation

employing at least three hundred employees at some time during the taxable year within or outside this state;

(2) Fifty dollars in the case of any other corporation.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code in this state to impose an income tax on the income of such corporations.

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that

was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), (F), and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), (B), and (F) of this section to that income.

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations

began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in divisions (A) and (B) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.0611. (A) There is hereby allowed a nonrefundable credit against the tax imposed under section 5733.06 of the Revised Code. The credit shall be equal to the taxpayer's proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code for the qualifying taxable year of the qualifying entity that ends in the taxable year of the taxpayer. The taxpayer shall claim the credit for the taxpayer's taxable year in which ends the qualifying entity's qualifying taxable year.

In claiming the credit and determining its proportionate share of the tax

due and the tax paid by the qualifying entity, the person claiming the credit shall follow the concepts set forth in subchapter K of the Internal Revenue Code. Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed and the credits allowed under this chapter.

The credit shall be claimed in the order required under section 5733.98 of the Revised Code. Any unused credit shall be allowed as a credit in the ensuing tax year. Any such amount allowed as a credit in an ensuing tax year shall be deducted from the balance carried forward to the next ensuing tax year.

(B) Any person that is not a taxpayer solely by reason of division (A) or (C) of section 5733.09 of the Revised Code or a person described in section 501(c) of the Internal Revenue Code or division (F) of section 3334.01 of the Revised Code, but that would be entitled to claim the nonrefundable credit under this section if that person were a taxpayer, may file an application for refund pursuant to section 5733.12 of the Revised Code. Upon proper application for refund under that section, the tax commissioner shall issue a refund in the amount of the credit to which that person would have been entitled under division (A)(1) of this section if the person had been a taxpayer, and as if the credit were a refundable credit.

(C) If an organization described in section 401(a) of the Internal Revenue Code or a trust or fund is entitled to a proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code, and if that proportionate share is then or could be allocable to an exempt person as defined in division (D) of this section, then the organization, trust, or fund may file an application for refund with respect to such allocable amounts pursuant to section 5733.12 of the Revised Code. Upon proper application for refund under that section, the tax commissioner shall issue a refund in the amount of the credit to which the organization, trust, or fund would have been entitled under division (A)(1) of this section had the organization, trust, or fund been a taxpayer, and as if the credit were a refundable credit. To the extent that such an organization, trust, or fund is permitted to apply for a refund under this division, or to the extent that such an organization, trust, or fund has applied for such a refund, exempt persons are not entitled to the credit authorized under this section or section 5747.059 of the Revised Code.

(D)(1) For the purposes of division (C) of this section only, "exempt person" means any of the following:

(a) A person that is or may be the beneficiary of a trust if the trust is

subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person is an exempt person under division (D) of this section.

(c) A person, other than a person that is treated as a C corporation for federal income tax purposes, who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (D)(1)(c) of this section applies only if the trust irrevocably agrees that for the taxable year during or for which the trust distributes any of its income to any of the beneficiaries, the trust is a qualifying trust as defined in section 5733.40 of the Revised Code and will pay the estimated tax, and will withhold and pay the withheld tax as required under section 5733.41 and sections 5747.40 to 5747.453 of the Revised Code.

(2) An exempt person does not include any person that would not qualify as an exempt person under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 5703.56 of the Revised Code to the contrary, an organization, trust, or fund described in division (C) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to a claim for a refundable credit under this section does not have as a principal purpose a claim for that credit. Nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in division (D)(2) of this section.

(E) Nothing in this section shall be construed to allow a refund more than once with respect to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code.

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions (A)(2) and (3) of this section, an incorporated company, whether foreign or domestic, owning and operating a public utility in this state, and required by law to file reports with the tax commissioner and to pay an excise tax upon its gross receipts, and insurance, fraternal, beneficial, bond investment, and other corporations required by law to file annual reports with the superintendent of insurance and dealers in intangibles, the shares of which are, or the

capital or ownership in capital employed by such dealer is, subject to the taxes imposed by section 5707.03 of the Revised Code, shall not be subject to this chapter, except for sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of the Revised Code. However, for reports required to be filed under section 5725.14 of the Revised Code in 2003 and thereafter, nothing in this section shall be construed to exempt the property of any dealer in intangibles under section 5725.13 of the Revised Code from the tax imposed under section 5707.03 of the Revised Code. ~~Am~~

(2) An electric company subject to the filing requirements of section 5727.08 of the Revised Code or otherwise having nexus with or in this state under the Constitution of the United States, or any other corporation having any gross receipts directly attributable to providing public utility service as an electric company or having any property directly attributable to providing public utility service as an electric company, is subject to this chapter.

(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent.

(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year.

A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect.

(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all

investors, shareholders, and other similar investors who owned any interest or invested in the entity during the preceding calendar year. The commissioner may extend the date by which the report must be submitted for reasonable cause shown by the entity. The commissioner may prescribe the form of the report required for exemption under this division.

(D)(1) As used in this division:

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation, cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer" means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

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

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a

commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(3) The exemption under this division does not apply for a taxable year to any corporation having on the first day of January of the tax year or at any time during the taxable year ending immediately preceding the first day of January of the tax year a related member which, on the first day of January of the tax year or during any portion of such taxable year of the corporation, has nexus in or with this state under the Constitution of the United States or holds a certificate of compliance with the laws of this state authorizing it to do business in this state.

(4) With respect to allowing the exemption under this division, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A corporation shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this division did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

Application of the doctrines listed in division (D)(4) of this section is not limited to this division.

Sec. 5733.121. If a corporation entitled to a refund under section 5733.11 or 5733.12 of the Revised Code is indebted to this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, or unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code or fee ~~administered by the tax commissioner~~ that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium,

unemployment compensation contribution, or unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the corporation has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax due for any tax year, of the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5733.18. Annually, on the day fixed for the payment of any excise or franchise tax required to be paid by law, such tax, together with any penalties subsequently accruing thereon, shall become a lien on all property in this state of a corporation, whether such property is employed by the corporation in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of the creditors and stockholders. Such lien shall continue until such taxes, together with any penalties subsequently accruing, are paid.

Upon failure of such corporation to pay such tax on the day fixed for payment, the tax commissioner may file, for which filing no fee shall be charged, in the office of the county recorder in each county in this state in which such corporation owns or has a beneficial interest in real estate, notice of such lien containing a brief description of such real estate. Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time such notice is so filed in the county in which the real estate which is the subject of such mortgage, purchase, or judgment lien is located. Such notice shall be recorded in a book kept by the recorder, called the corporation franchise lien record, and indexed under the name of the corporation charged with such tax. When such tax, together with any penalties subsequently accruing thereon, has been paid, the tax commissioner shall furnish to the corporation an acknowledgment of such payment which the corporation may record with the recorder of each county in which notice of such lien has been filed, for which recording the recorder shall charge and receive a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5733.22. (A)(1) Any corporation whose articles of incorporation or

license certificate to do or transact business in this state has been canceled by the secretary of state pursuant to section 5733.20 of the Revised Code for failure to make any report or return or to pay any tax or fee, shall be reinstated and again entitled to exercise its rights, privileges, and franchises in this state, and the secretary of state shall cancel the entry of cancellation to exercise its rights, privileges, and franchises upon compliance with all of the following:

(a) Payment to the secretary of state of any additional fees and penalties required to be paid to the secretary of state;

(b) Filing with the secretary of state a certificate from the tax commissioner that it has complied with all the requirements of law as to franchise or excise tax reports and paid all franchise or excise taxes, fees, or penalties due thereon for every year of its delinquency;

(c) Payment to the secretary of state of an additional fee of ten dollars.

(2) The applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name if all of the following apply:

(a) The reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation of its license to do business;

(b) It appears that the applicant's articles of incorporation or license certificate has been issued to another entity and is not distinguishable upon the record from the name of the applicant;

(c) It appears that the articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name has been issued to another entity and is not distinguishable upon the record from the name of the applicant. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code.

Any officer, shareholder, creditor, or receiver of any such corporation may at any time take all steps required by this section to effect such reinstatement.

(B) The rights, privileges, and franchises of a corporation whose articles of incorporation have been reinstated in accordance with this section, are subject to section 1701.922 of the Revised Code.

(C) Notwithstanding a violation of section 5733.21 of the Revised Code,

upon reinstatement of a corporation's articles of incorporation in accordance with this section, neither section 5733.20 nor section 5733.21 of the Revised Code shall be applied to invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to the reinstatement of the articles, if the conditions set forth in divisions (B)(1)(a) and (b) of section 1701.922 of the Revised Code are met.

Sec. 5733.45. (A) For purposes of this section, a "qualifying dealer in intangibles" is a dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member on the first day of the financial institution's tax year.

(B) For tax years 2002 and thereafter, there is hereby allowed to each financial institution a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit shall be computed in accordance with division (C) of this section. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. The credit shall not exceed the amount of tax otherwise due under section 5733.06 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.

(C) Subject to division (D) of this section, the amount of the nonrefundable credit is the lesser of the amount described in division (C)(1) of this section or the amount described in division (C)(2) of this section.

(1) The amount of tax that a qualifying dealer in intangibles paid under Chapter 5707. of the Revised Code during the calendar year immediately preceding the financial institution's tax year. Such amount shall be reduced, but not below zero, by any refunds of such tax received by the qualifying dealer in intangibles under Chapter 5703. of the Revised Code during that calendar year.

(2) The product of the amounts described in division (C)(2)(a) to (C)(2)(c) of this section. The amount described in division (C)(2)(a) of this section shall be ascertained on the last day of the financial institution's taxable year immediately preceding the tax year.

(a) The cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles. The cost does not include any appreciation or goodwill to the extent those amounts are allowed as an exempted asset on the financial institution's annual report.

(b) The ratio described in section 5725.15 of the Revised Code for the calendar year immediately preceding the financial institution's tax year;

(c) The tax rate imposed under division (D) of section 5707.03 of the Revised Code for the calendar year immediately preceding the financial

institution's tax year.

(D)(1) The principles and concepts set forth in section 5733.057 of the Revised Code shall apply to ascertain if a dealer in intangibles is a member of a qualifying controlled group of which the financial institution also is a member and to ascertain the cost of the financial institution's direct investment in the capital stock of the qualifying dealer in intangibles.

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised Code to the contrary, a financial institution claiming the credit provided by this section has the burden to establish by a preponderance of the evidence that none of the doctrines enumerated in that section would apply to deny to the financial institution all or a part of the credit otherwise provided by this section.

(E) For tax years 2002 and 2003, the credit allowed by this section applies only if the qualifying dealer in intangibles on account of which the financial institution is claiming the credit submits to the ~~Tax Commissioner~~ tax commissioner, not later than January 15, 2002, a written statement that the qualifying dealer in intangibles irrevocably agrees that it will not seek a refund of the tax paid by the dealer under section 5707.03 of the Revised Code in 2000 and 2001, and irrevocably agrees to continue paying that tax in 2002, regardless of the amendment of section 5725.26 of the Revised Code by Am. Sub. H.B. 405 of the 124th general assembly.

Sec. 5733.49. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code. If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy-five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due under those sections after all the taxpayer's credits are deducted in that order. If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that precede the credit allowed under this section, the excess shall be allowed as a credit in each of

the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year.

Sec. 5733.55. (A) As used in this section:

(1) "9-1-1 system" has the same meaning as in section 4931.40 of the Revised Code.

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges approved by the public utilities commission for the telephone network portion of a 9-1-1 system pursuant to section 4931.47 of the Revised Code.

(3) "Eligible nonrecurring 9-1-1 charges" means all nonrecurring 9-1-1 charges for a 9-1-1 system, except:

(a) Charges for a system that was not established pursuant to a plan adopted under section 4931.44 of the Revised Code or an agreement under section 4931.48 of the Revised Code;

(b) Charges for that part of a system established pursuant to such a plan or agreement that are excluded from the credit by division (C)(2) of section 4931.47 of the Revised Code.

(4) "Telephone company" has the same meaning as in section 5727.01 of the Revised Code.

(B) Beginning in tax year 2005, a telephone company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code equal to the amount of its eligible nonrecurring 9-1-1 charges. The credit shall be claimed for the company's taxable year that covers the period in which the 9-1-1 service for which the credit is claimed becomes available for use. The credit shall be claimed in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted.

(C) After the last day a return, with any extensions, may be filed by any telephone company that is eligible to claim a credit under this section, the commissioner shall determine whether the sum of the credits allowed for prior tax years commencing with tax year 2005 plus the sum of the credits claimed for the current tax year exceeds fifteen million dollars. If it does, the credits allowed under this section for the current tax year shall be reduced by a uniform percentage such that the sum of the credits allowed for the current tax year do not exceed fifteen million dollars claimed by all telephone companies for all tax years. Thereafter, no credit shall be granted under this section, except for the remaining portions of any credits allowed under division (B) of this section.

(D) A telephone company that is entitled to carry forward a credit against its public utility excise tax liability under section 5727.39 of the Revised Code is entitled to carry forward any amount of that credit remaining after its last public utility excise tax payment for the period of July 1, 2003, through June 30, 2004, and claim that amount as a credit against its corporation franchise tax liability under this section. Nothing in this section authorizes a telephone company to claim a credit under this section for any eligible nonrecurring 9-1-1 charges for which it has already claimed a credit under section 5727.39 of the Revised Code.

Sec. 5733.56. Beginning in tax year 2005, a telephone company that provides any telephone service program to aid the communicatively impaired in accessing the telephone network under section 4905.79 of the Revised Code is allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit is the cost incurred by the company for providing the telephone service program during its taxable year, excluding any costs incurred prior to July 1, 2004. If the tax commissioner determines that the credit claimed under this section by a telephone company was not correct, the commissioner shall determine the proper credit.

A telephone company shall claim the credit in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted. Nothing in this section authorizes a telephone company to claim a credit under this section for any costs incurred for providing a telephone service program for which it is claiming a credit under former section 5727.44 of the Revised Code.

Sec. 5733.57. (A) As used in this section:

(1) "Small telephone company" means a telephone company, existing as such as of January 1, 2003, with twenty-five thousand or fewer access lines as shown on the company's annual report filed under section 4905.14 of the Revised Code for the calendar year immediately preceding the tax year, and is an "incumbent local exchange carrier" under 47 U.S.C. 251(h).

(2) "Gross receipts tax amount" means the product obtained by multiplying four and three-fourths per cent by the amount of a small telephone company's taxable gross receipts, excluding the deduction of twenty-five thousand dollars, that the tax commissioner would have determined under section 5727.33 of the Revised Code for that small telephone company for the annual period ending on the thirtieth day of June

of the calendar year immediately preceding the tax year, as that section applied in the measurement period from July 1, 2002, to June 30, 2003.

(3) "Applicable percentage" means one hundred per cent for tax year 2005; eighty per cent for tax year 2006; sixty per cent for tax year 2007; forty per cent for tax year 2008; twenty per cent for tax year 2009; and zero per cent for each subsequent tax year thereafter.

(4) "Applicable amount" means the amount resulting from subtracting the gross receipts tax amount from the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for the tax year, without regard to any credits available to the small telephone company.

(B)(1) Except as provided in division (B)(2) of this section, beginning in tax year 2005, a small telephone company is hereby allowed a nonrefundable credit against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the product obtained by multiplying the applicable percentage by the applicable amount. The credit shall be claimed in the order required by section 5733.98 of the Revised Code.

(2) If the applicable amount for a tax year is less than zero, a small telephone company shall not be allowed for that tax year the credit provided under this section.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;

(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;

(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(8) The credit for employers that reimburse employee child day-care

expenses under section 5733.38 of the Revised Code;

(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;

(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;

(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of ~~th~~ the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;

(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

(15) The job training credit under section 5733.42 of the Revised Code;

(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;

(17) The enterprise zone credit under section 5709.66 of the Revised Code;

(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;

(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;

(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

(22) The export sales credit under section 5733.069 of the Revised Code;

(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

(24) The enterprise zone credits under section 5709.65 of the Revised Code;

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;

(26) The credit for small telephone companies under section 5733.57 of the Revised Code;

(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;

(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(27)~~(30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(28)~~(31) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(26)~~, ~~(27)~~, ~~(29)~~, (30), and ~~(28)~~(31) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5735.05. (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties of the state properly to plan, maintain, and repair their roads and to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code for highway improvements; to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets, and to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code for highway improvements; to enable the Ohio turnpike commission to construct, reconstruct, maintain, and repair turnpike projects; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under sections 4907.47 and 4907.471 of the Revised Code and to supplement revenue already available for such purposes; to pay the costs incurred by the public utilities commission in administering sections 4907.47 to 4907.476 of the Revised Code; to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and

repairing them; to pay the interest, principal, and charges on highway capital improvements bonds and other obligations issued pursuant to Section 2m of Article VIII, Ohio Constitution, and section 151.06 of the Revised Code; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; ~~and to provide revenue for the purposes of sections 1547.71 to 1547.78 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the motor fuel~~ laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon receipt of motor fuel within this state at the rate of two cents plus the cents per gallon rate on each gallon so received, to be computed in the manner set forth in section 5735.06 of the Revised Code; provided that no tax is hereby imposed upon the following transactions:

(1) The sale of dyed diesel fuel by a licensed motor fuel dealer from a location other than a retail service station provided the licensed motor fuel dealer places on the face of the delivery document or invoice, or both if both are used, a conspicuous notice stating that the fuel is dyed and is not for taxable use, and that taxable use of that fuel is subject to a penalty. The tax commissioner, by rule, may provide that any notice conforming to rules or regulations issued by the United States department of the treasury or the Internal Revenue Service is sufficient notice for the purposes of division (A)(1) of this section.

(2) The sale of K-1 kerosene to a retail service station, except when placed directly in the fuel supply tank of a motor vehicle. Such sale shall be rebuttably presumed to not be distributed or sold for use or used to generate power for the operation of motor vehicles upon the public highways or upon the waters within the boundaries of this state.

(3) The sale of motor fuel by a licensed motor fuel dealer to another licensed motor fuel dealer;

(4) The exportation of motor fuel by a licensed motor fuel dealer from this state to any other state or foreign country;

(5) The sale of motor fuel to the United States government or any of its agencies, except such tax as is permitted by it, where such sale is evidenced by an exemption certificate, in a form approved by the tax commissioner, executed by the United States government or an agency thereof certifying that the motor fuel therein identified has been purchased for the exclusive use of the United States government or its agency;

(6) The sale of motor fuel ~~which~~ that is in the process of transportation in foreign or interstate commerce, except ~~in so far~~ insofar as it may be taxable under the Constitution and statutes of the United States, and except

as may be agreed upon in writing by the dealer and the commissioner;

(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;

(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type A;

(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter type B, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.

(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.

Division (A)(1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.

(B) The two cent motor fuel tax levied by this section is also for the purpose of paying the expenses of administering and enforcing the state law relating to the registration and operation of motor vehicles.

(C) After the tax provided for by this section on the receipt of any motor fuel has been paid by the motor fuel dealer, the motor fuel may thereafter be used, sold, or resold by any person having lawful title to it, without incurring liability for such tax.

If a licensed motor fuel dealer sells motor fuel received by the licensed motor fuel dealer to another licensed motor fuel dealer, the seller may deduct on the report required by section 5735.06 of the Revised Code the number of gallons so sold for the month within which the motor fuel was sold or delivered. In this event the number of gallons is deemed to have been received by the purchaser, who shall report and pay the tax imposed thereon.

Sec. 5735.053. There is hereby created in the state treasury the motor fuel tax administration fund for the purpose of paying the expenses of the department of taxation incident to the administration of the motor fuel laws.

After the treasurer of state credits the tax refund fund out of tax receipts as required by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised Code, the treasurer of state shall transfer to the motor fuel tax

administration fund two hundred seventy-five one-thousandths per cent of the receipts from the taxes levied by sections 5735.05, 5735.25, 5735.29, and 5735.30 of the Revised Code.

Sec. 5735.14. (A) Any person who uses any motor fuel, on which the tax imposed by this chapter has been paid, for the purpose of operating stationary gas engines, tractors not used on public highways, unlicensed motor vehicles used exclusively in intraplant operations, vessels when used in trade, including vessels when used in connection with an activity that constitutes a person's chief business or means of livelihood or any other vessel used entirely for commercial purposes, vessels used for commercial fishing, vessels used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship, vessels used or owned by any railroad company, railroad car ferry company, the United States, this state, or any political subdivision of this state, or aircraft, or who uses any such fuel upon which such tax has been paid, for cleaning or for dyeing, or any purpose other than the operation of motor vehicles upon highways or upon waters within the boundaries of this state, shall be reimbursed in the amount of the tax so paid on such motor fuel as provided in this section; provided, that any person purchasing motor fuel in this state on which taxes levied under Title LVII of the Revised Code have been paid shall be reimbursed for such taxes paid in this state on such fuel used by that person in another state on which a tax is paid for such usage, except such tax used as a credit against the tax levied by section 5728.06 of the Revised Code. A person shall not be reimbursed for taxes paid on fuel that is used while a motor vehicle is idling or used to provide comfort or safety in the operation of a motor vehicle. Sales of motor fuel, on which the tax imposed by this chapter has been paid, from one person to another do not constitute use of the fuel and are not subject to a refund under this section.

~~Such~~ (B) Any person who uses in this state any motor fuel with water intentionally added to the fuel, on which the taxes imposed by this chapter or Chapter 5728. of the Revised Code have been paid, shall be reimbursed in the amount of the taxes so paid on ninety-five per cent of the water. This division applies only to motor fuel that contains at least nine per cent water, by volume.

(C) A person claiming reimbursement under this section shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for the refundable purposes other than the operation of motor vehicles in division (A) or (B) of this section, except that no person shall file a claim for the tax on fewer than one hundred gallons of motor fuel. An application for refund filed for the

purpose of division (B) of this section also shall state the quantity of water intentionally added to the motor fuel. No person shall claim reimbursement under that division on fewer than one hundred gallons of water. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing such purchase, together with evidence of payment thereof.

(D) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

No refund shall be authorized or paid under this section on a single claim for tax on fewer than one hundred gallons of motor fuel. And, when water has been intentionally added to fuel, no refund shall be authorized or paid under this section on a single claim for tax on fewer than one hundred gallons of water. The commissioner may require that the application be supported by the affidavit of the claimant.

The refund authorized by this section or section 5703.70 of the Revised Code shall be reduced by the cents per gallon amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

(E) The right to receive any refund under this section or section 5703.70 of the Revised Code is not assignable. The payment of this refund shall not be made to any person other than the person originally entitled thereto who used the motor fuel upon which the claim for refund is based, except that such refunds, when allowed and certified as provided in this section, may be paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such person.

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code has been paid, for the purpose of operating a transit bus shall be reimbursed in the amount of the tax paid on motor fuel used by public transportation systems providing transit or paratransit service on a regular and continuing basis within the state;

(2) A city, exempted village, joint vocational, or local school district or educational service center that uses purchases any motor fuel for school district or service center operations, on which any tax imposed by section

5735.29 of the Revised Code that became effective on or after July 1, 2003, has been paid, may, if an application is filed under this section, be reimbursed in the amount of all but two cents per gallon of ~~that~~ the total tax imposed by such section and paid on motor fuel, ~~used for providing transportation for pupils in a vehicle the district owns or leases.~~

(B) Such person, school district, or educational service center shall file with the tax commissioner an application for refund within one year from the date of purchase, stating the quantity of fuel used for operating transit buses used by local transit systems in furnishing scheduled common carrier, public passenger land transportation service along regular routes primarily in one or more municipal corporations or for operating vehicles used ~~by~~ for school districts to transport pupils district or service center operations. However, no ~~person shall file a claim~~ shall be made for the tax on fewer than one hundred gallons of motor fuel. A school district or educational service center shall not apply for a refund for any tax paid on motor fuel that is sold by the district or educational service center. The application shall be accompanied by the statement described in section 5735.15 of the Revised Code showing the purchase, together with evidence of payment thereof.

(C) After consideration of the application and statement, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

The commissioner may require that the application be supported by the affidavit of the claimant. No refund shall be authorized or ordered for any single claim for the tax on fewer than one hundred gallons of motor fuel. No refund shall be authorized or ordered on motor fuel that is sold by a school district or educational service center.

(D) The refund authorized by this section or section 5703.70 of the Revised Code shall be reduced by the cents per gallon amount of any qualified fuel credit received under section 5735.145 of the Revised Code, as determined by the commissioner, for each gallon of qualified fuel included in the total gallonage of motor fuel upon which the refund is computed.

(E) The right to receive any refund under this section or section 5703.70 of the Revised Code is not assignable. The payment of this refund shall not be made to any person or entity other than the person or entity originally entitled thereto who used the motor fuel upon which the claim for refund is

based, except that the refund when allowed and certified, as provided in this section, may be paid to the executor, the administrator, the receiver, the trustee in bankruptcy, or the assignee in insolvency proceedings of the person.

Sec. 5735.15. When motor fuel is sold to a person who claims to be entitled to a refund under section 5735.14 or 5735.142 of the Revised Code, the seller of such motor fuel shall ~~make out in duplicate on forms prescribed and supplied by the tax commissioner, which forms shall have printed thereon~~ provide to the person documentation that indicates that the liability to the state for the excise tax imposed under the motor fuel laws of this state on such motor fuel has been assumed by the seller, and that said excise tax has already been paid or will be paid by the seller when the same becomes payable, ~~a statement setting~~. The documentation also shall set forth the name and address of the purchaser, the number of gallons of motor fuel sold, the price paid for or the price per gallon of the motor fuel sold, the proposed use for which such motor fuel is purchased, and such other information as the commissioner requires. When motor fuel is sold to a person who claims to be entitled to reimbursement under division (B) of section 5735.14 of the Revised Code, the documentation also shall state the number of gallons of water intentionally added to the motor fuel. The original of such statement documentation shall be given to the purchaser, and the duplicate a copy shall be retained by the seller.

Sec. 5735.19. (A) The tax commissioner may examine, during the usual business hours of the day, the records, books, ~~and papers~~ invoices, storage tanks, and any other equipment of any motor fuel dealer, retail dealer, exporter, terminal operator, purchaser, or common carrier pertaining to motor fuel received, sold, shipped, or delivered, to determine whether the taxes imposed by this chapter have been paid and to verify the truth and accuracy of any statement, report, or return. ~~The~~

(B) The tax commissioner may, in the enforcement of the motor fuel laws of this state, hold hearings, take the testimony of any person, issue subpoenas and compel the attendance of witnesses, and conduct such investigations as the commissioner deems necessary, ~~but no person shall disclose the information acquired by the commissioner under this section, except when required to do so in court.~~ Such information or evidence is not privileged when used by the state or any officer thereof in any proceeding for the collection of the tax, or any prosecution for violation of the motor fuel laws.

(C) The commissioner may prescribe all forms upon which reports shall be made to the commissioner, forms for claims for refund presented to the

commissioner, or forms of records to be used by motor fuel dealers.

(D)(1) As used in this division, "designated inspection site" means any state highway inspection station, weigh station, mobile station, or other similar location designated by the tax commissioner to be used as a fuel inspection site.

(2) An employee of the department of taxation that is so authorized by the tax commissioner may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of fuel, fuel dyes, or fuel markers, and books and records, if any, that are maintained at the place of inspection and are kept to determine tax liability under this chapter. Inspections may be performed at any place at which motor fuel is or may be produced or stored, or at any designated inspection site.

(3) An employee of the department of taxation who is a duly authorized enforcement agent may detain any motor vehicle, train, barge, ship, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment shall be on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the fuel.

(4) Any employee described in division (D)(2) or (3) of this section who has been properly trained may take and remove samples of fuel in quantities as are reasonably necessary to determine the composition of the fuel.

(5) No person shall refuse to allow an inspection under division (D) of this section. Any person who refuses to allow an inspection shall be subject to revocation or cancellation of any license or permit issued under Chapter 5728. or 5735. of the Revised Code.

Sec. 5735.23. (A) Out of receipts from the tax levied by section 5735.05 of the Revised Code, the treasurer of state shall place to the credit of the tax refund fund established by section 5703.052 of the Revised Code amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.13, 5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The treasurer of state shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund ~~and~~, the amount required by section 4907.472 of the Revised Code to the grade crossing protection fund, ~~and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund.~~

(B) Except as provided in division (D) of this section, each month the balance of the receipts from the tax levied by section 5735.05 of the Revised Code shall be credited, after receipt by the treasurer of state of certification from the commissioners of the sinking fund, as required by section 5528.35

of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, as follows:

(1) To the state and local government highway distribution fund, which is hereby created in the state treasury, an amount that is the same percentage of the balance to be credited as that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code is of the total tax per gallon determined under divisions (B)(2)(a) and (b) of that section.

(2) After making the distribution to the state and local government highway distribution fund, the remainder shall be credited as follows:

(a) Thirty per cent to the gasoline excise tax fund for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code;

(b) Twenty-five per cent to the gasoline excise tax fund for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code;

(c) Except as provided in division (D) of this section, forty-five per cent to the highway operating fund for distribution pursuant to division (B)(1) of section 5735.27 of the Revised Code.

(C) From the balance in the state and local government highway distribution fund on the last day of each month there shall be paid the following amounts:

(1) To the local transportation improvement program fund created by section 164.14 of the Revised Code, an amount equal to a fraction of the balance in the state and local government highway distribution fund, the numerator of which fraction is one and the denominator of which fraction is that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code;

(2) An amount equal to five cents multiplied by the number of gallons of motor fuel sold at stations operated by the Ohio turnpike commission, such gallonage to be certified by the commission to the treasurer of state not later than the last day of the month following. The funds paid to the commission pursuant to this section shall be expended for the construction, reconstruction, maintenance, and repair of turnpike projects, except that the funds may not be expended for the construction of new interchanges. The funds also may be expended for the construction, reconstruction, maintenance, and repair of those portions of connecting public roads that serve existing interchanges and are determined by the commission and the

director of transportation to be necessary for the safe merging of traffic between the turnpike and those public roads.

The remainder of the balance shall be distributed as follows on the fifteenth day of the following month:

(a) Ten and seven-tenths per cent shall be paid to municipal corporations for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of two hundred forty-eight thousand six hundred twenty-five dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(b) Five per cent shall be paid to townships for distribution pursuant to division (A)(5) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of eighty-seven thousand seven hundred fifty dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(c) Nine and three-tenths per cent shall be paid to counties for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code and may be used for any purpose for which payments received under that division may be used. Beginning August 15, 2004, the sum of two hundred forty-eight thousand six hundred twenty-five dollars shall be ~~annually~~ monthly subtracted from the amount so computed and credited to the highway operating fund.

(d) Except as provided in division (D) of this section, the balance shall be transferred to the highway operating fund and used for the purposes set forth in division (B)(1) of section 5735.27 of the Revised Code.

(D) Beginning on the first day of September each fiscal year, any amounts required to be credited or transferred to the highway operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this section shall be credited or transferred to the highway capital improvement bond service fund created in section 151.06 of the Revised Code, until such time as the office of budget and management receives certification from the treasurer of state or the treasurer of state's designee that sufficient money has been credited or transferred to the bond service fund to meet in full all payments of debt service and financing costs due during the fiscal year from that fund.

Sec. 5735.26. The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by section 5735.25 of the Revised Code, amounts equal to the refunds certified by the tax commissioner pursuant to

sections 5735.142 and 5735.25 of the Revised Code, which shall be paid from such fund. ~~Receipts from the tax shall be used by the tax commissioner for the maintenance and administration of the motor fuel laws.~~ The treasurer of state shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund.

The balance of taxes collected under section 5735.25 of the Revised Code shall be credited as follows, after the credits to the tax refund fund, ~~and after deduction of the cost of administration of the motor fuel laws,~~ and after the ~~transfer~~ transfers to the waterways safety fund and motor fuel tax administration fund, and after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year:

(A) Sixty-seven and one-half per cent to the highway operating fund for distribution pursuant to division (B)(2) of section 5735.27 of the Revised Code;

(B) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(2) of such section;

(C) Seven and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(4) of such section;

(D) Seventeen and one-half per cent to the gasoline excise tax fund for distribution pursuant to division (A)(5) of such section.

Sec. 5735.291. (A) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by section 5735.29 of the Revised Code, amounts equal to the refunds certified by the tax commissioner pursuant to sections 5735.142 and 5735.29 of the Revised Code. The refunds provided for by sections 5735.142 and 5735.29 of the Revised Code shall be paid from such fund. The treasurer of state shall then transfer the amount

required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. ~~The~~

The specified portion of the balance of taxes collected under section 5735.29 of the Revised Code, after the credits to the tax refund fund, and ~~after the transfer~~ transfers to the waterways safety fund and the motor fuel tax administration fund, shall be credited to the gasoline excise tax fund. Subject to division (B) of this section, forty-two and eighty-six hundredths per cent of the specified portion shall be distributed among the municipal corporations within the state in accordance with division (A)(2) of section 5735.27 of the Revised Code, thirty-seven and fourteen hundredths per cent of the specified portion shall be distributed among the counties within the state in accordance with division (A)(3) of section 5735.27 of the Revised Code, and twenty per cent of the specified portion shall be combined with twenty per cent of any amounts transferred from the highway operating fund to the gasoline excise tax fund through biennial appropriations acts of the general assembly pursuant to the planned phase-in of a new source of funding for the state highway patrol, and shall be distributed among the townships within the state in accordance with division (A)(5)(b) of section 5735.27 of the Revised Code. Subject to division (B) of this section, the remainder of the tax levied by section 5735.29 of the Revised Code after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, shall be credited to the highway operating fund, which is hereby created in the state treasury and shall be used solely for the purposes enumerated in section 5735.29 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B)(1) Effective August 15, 2003, prior to the distribution from the

gasoline excise tax fund to municipal corporations of the forty-two and eighty-six hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(2) Effective August 15, 2003, prior to the distribution from the gasoline excise tax fund to counties of the thirty-seven and fourteen hundredths per cent of the specified portion as provided in division (A) of this section, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(3) Effective August 15, 2003, prior to crediting any revenue resulting from the tax levied by section 5735.29 of the Revised Code to the highway operating fund, the department of taxation shall deduct thirty-three and one-third per cent of the amount specified in division (A)(5)(c) of section 5735.27 of the Revised Code and use it for distribution to townships pursuant to division (A)(5)(b) of that section.

(C) As used in this section, "specified portion" means all of the following:

(1) Until August 15, 2003, none of the taxes collected under section 5735.29 of the Revised Code;

(2) Effective August 15, 2003, one-eighth of the balance of taxes collected under section 5735.29 of the Revised Code, after the credits to the tax refund fund and ~~after the transfer transfers~~ to the waterways safety fund and the motor fuel tax administration fund;

(3) Effective August 15, 2004, one-sixth of the balance of taxes described in division (C)(2) of this section;

(4) Effective August 15, 2005, three-sixteenths of the balance of taxes described in division (C)(2) of this section.

Sec. 5735.30. (A) For the purpose of providing funds to pay the state's share of the cost of constructing and reconstructing highways and eliminating railway grade crossings on the major thoroughfares of the state highway system and urban extensions thereof, to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund, to pay the interest, principal, and charges on bonds and other

obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, ~~and~~ to provide revenues for the purposes of sections 1547.71 to 1547.78 of the Revised Code, and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within the state, at the rate of one cent on each gallon so received, to be reported, computed, paid, collected, administered, enforced, refunded, and subject to the same exemptions and penalties as provided in this chapter of the Revised Code.

The tax imposed by this section shall be in addition to the tax imposed by sections 5735.05, 5735.25, and 5735.29 of the Revised Code.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to this section. The refund provided for by ~~the first paragraph~~ division (A) of this section shall be paid from such fund. The treasurer shall then transfer the amount required by section 5735.051 of the Revised Code to the waterways safety fund and the amount required by section 5735.053 of the Revised Code to the motor fuel tax administration fund. The balance of taxes for which the liability has become fixed prior to July 1, 1955, under this section, after the credit to the tax refund fund, shall be credited to the highway operating fund.

(C)(1) The moneys derived from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided and transfers required by division (B) of this section~~, shall, during each calendar year, be credited to the highway improvement bond retirement fund created by section 5528.12 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.17 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code due and payable during the current calendar year and during the next succeeding calendar year. From the date of the receipt of the certification required by section 5528.17 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which such certification is made,

all moneys received in the state treasury from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway obligations bond retirement fund created by section 5528.32 of the Revised Code, until the commissioners of the sinking fund certify to the treasurer of state, as required by section 5528.38 of the Revised Code, that there are sufficient moneys to the credit of the highway obligations bond retirement fund to meet in full all payments of interest, principal, and charges for the retirement of obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year and during the next succeeding calendar year. ~~From~~

(2) From the date of the receipt of the certification required by section 5528.38 of the Revised Code by the treasurer of state until the thirty-first day of December of the calendar year in which such certification is made, all moneys received in the state treasury from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway operating fund, except as provided in ~~the next succeeding paragraph~~ division (C)(3) of this section.

(3) From the date of the receipt by the treasurer of state of certifications from the commissioners of the sinking fund, as required by sections 5528.18 and 5528.39 of the Revised Code, certifying that the moneys to the credit of the highway improvement bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all bonds and other obligations which may be issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code, and to the credit of the highway obligations bond retirement fund are sufficient to meet in full all payments of interest, principal, and charges for the retirement of all obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code, the moneys derived from the tax levied by this section, after ~~the credit to the tax refund fund and the waterways safety fund as provided~~ and transfers required by division (B) of this section, shall be credited to the highway operating fund.

Sec. 5735.99. (A) Whoever violates division (F) of section 5735.02, division (D) of section 5735.021, division (B) of section 5735.063, division (B) of section 5735.064, or division (A)(2) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (E) of section 5735.06 of the Revised

Code is guilty of a felony of the fourth degree.

(C) Whoever violates section 5735.025 or division (A)(1) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree, if the tax owed or the fraudulent refund received is not greater than five hundred dollars. If the tax owed or the fraudulent refund received is greater than five hundred dollars but not greater than ten thousand dollars, the offender is guilty of a felony of the fourth degree; for each subsequent offense when the tax owed or the fraudulent refund received is greater than five hundred dollars but not greater than ten thousand dollars, the offender is guilty of a felony of the third degree. If the tax owed or the fraudulent refund received is greater than ten thousand dollars, the offender is guilty of a felony of the second degree.

(D) Whoever violates a provision of this chapter for which a penalty is not otherwise prescribed under this section is guilty of a misdemeanor of the fourth degree.

(E) Whoever violates division (D)(5) of section 5735.19 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility

service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) ~~Industrial~~ Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, other than mobile telecommunications service after July 31, 2002, is or is to be provided ~~that originates or terminates in this state and is charged in the records of the telecommunications service vendor to the consumer's telephone number or account in this state, or that both originates and terminates in this state;~~, but does not include transactions by which ~~telecommunications service is paid for by using a prepaid authorization number or prepaid telephone calling card, or by which local telecommunications service is obtained from a coin-operated telephone and paid for by using coin;~~

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided.

(p) After July 31, 2002, mobile telecommunications service is or is to be provided ~~in this state~~ when that service is situated to this state pursuant to the

"Mobile Telecommunications Sourcing Act," P. Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended.

(q) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(r) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(s) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(t) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(u) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such

tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract. The transfer of copyrighted motion picture films for exhibition purposes is not a sale, except such films as are used solely for advertising purposes. ~~Other than as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.~~

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

~~(8) All transactions by which a prepaid authorization number or a prepaid telephone calling card is or is to be transferred~~ On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business.

Except as provided in this section, "sale" and "selling" do not include

transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the

purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim ~~exception~~ exemption under division ~~(E)(8)(B)(43)(f)~~ of this section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is:

~~(1) To~~ to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person;

~~(2) To incorporate the thing transferred as a material or a part, into~~ tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining, or to use or consume the thing transferred directly in producing a product for sale by mining, including without limitation the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, and persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas; directly in the rendition of a public utility service, except that the sales tax levied by section 5739.02 of the Revised Code shall be collected upon all meals, drinks, and food for human consumption sold upon Pullman and

railroad coaches. This paragraph does not exempt or except from "retail sale" or "sales at retail" the sale of tangible personal property that is to be ~~incorporated into a structure or improvement to real property.~~

(3) To hold the thing transferred as security for the performance of an ~~obligation of the vendor;~~

(4) To use or consume the thing transferred in the process of ~~reclamation as required by Chapters 1513. and 1514. of the Revised Code;~~

(5) To resell, hold, use, or consume the thing transferred as evidence of ~~a contract of insurance;~~

(6) ~~To use or consume the thing directly in commercial fishing;~~

(7) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, ~~magazines distributed as controlled circulation publications;~~

(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other ~~productions or reproductions of written or graphic matter;~~

(9) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible ~~personal property for sale;~~

(10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its ~~purchase from the tax imposed by section 5739.02 of the Revised Code;~~

(11) To use the thing transferred as qualified research and development ~~equipment;~~

(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(e) of this section and "direct marketing" has the same ~~meaning as in division (B)(36) of section 5739.02 of the Revised Code.~~

(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part

of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement ~~the provision of which is defined as a sale under division (B)(7) of this section;~~

(14) To use or consume the thing transferred in the production of a ~~newspaper for distribution to the public;~~

~~(15) To use tangible personal property to perform a service listed in division (B)(3) of this section, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.~~

As used in division (E) of this section, "thing" includes all transactions ~~included in divisions (B)(3)(a), (b), and (c) of this section.~~

Sales conducted through a coin-operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided ~~as part of the transaction, are not retail sales or sales at retail.~~

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means ~~the aggregate value in money of anything paid or delivered,~~ or promised to be paid or delivered, in the complete performance of a retail sale, without any deduction on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the retail sale consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of the rental or lease, without any deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (H)(4) of this section, the sales tax shall be calculated and collected by the lessor on each payment made by the lessee. "Price" does not include the consideration received as a deposit refundable to the consumer upon

return of a beverage container, the consideration received as a deposit on a carton or case that is used for such returnable containers, or the consideration received as a refundable security deposit for the use of tangible personal property to the extent that it actually is refunded, if the consideration for such refundable deposit is separately stated from the consideration received or to be received for the tangible personal property transferred in the retail sale. Such separation must appear in the sales agreement or on the initial invoice or initial billing rendered by the vendor to the consumer. "Price" also does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the vendor. Price is the amount received inclusive of the tax, provided the vendor establishes to the satisfaction of the tax commissioner that the tax was added to the price. When the price includes both a charge for tangible personal property and a charge for providing a service and the sale of the property and the charge for the service are separately taxable, or have a separately determinable tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.

~~The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized in section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.~~

~~As used in division (H)(1) of this section, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:~~

- ~~(i) The vendor's cost of the property sold;~~
- ~~(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, and any other expense of the vendor;~~
- ~~(iii) Charges by the vendor for any services necessary to complete the sale;~~

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) The value of exempt tangible personal property given to the consumer where taxable and exempt tangible personal property have been bundled together and sold by the vendor as a single product or piece of merchandise.

(b) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

~~(4) In the case of the lease of any motor vehicle designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the sales~~

~~tax shall be collected by the vendor at the time the lease is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the sales tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due.~~

~~As used in divisions (H)(3) and (4) of this section, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.~~

In the case of a transaction in which telecommunications service, mobile telecommunications service, or cable television service is sold in a bundled transaction with other distinct services for a single price that is not itemized, the entire price is subject to the taxes levied under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code, unless the vendor can reasonably identify the nontaxable portion from its books and records kept in the regular course of business. Upon the request of the consumer, the vendor shall disclose to the consumer the selling price for the taxable services included in the selling price for the taxable and nontaxable services billed on an aggregated basis. The burden of proving any nontaxable charges is on the vendor.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's

taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property ~~which~~ that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in providing the rendition of a public utility service ~~as defined in this division~~.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are

changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to

computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the

following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA) "Telecommunications service" means the transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media. "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, ~~but~~ and other related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling. "Telecommunications service" does not include any of the following:

(1) ~~Sales of incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, to the person contracting for the receipt of that service;~~

(2) ~~Sales of private communications service to the person contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges;~~

(3) Sales of telecommunications service billed to persons before January 1, 2004, by telephone companies subject to the excise tax imposed by Chapter 5727. of the Revised Code;

~~(4)~~(2) Sales of telecommunications service to a provider of telecommunications service or of mobile telecommunications service, including access services, for use in providing telecommunications service

or mobile telecommunications service;

~~(5)~~(3) Value-added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;

~~(6)~~(4) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code;

~~(7)~~(5) After July 31, 2002, mobile telecommunications service.

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ articles of clothing, ~~or other fabric items~~ that belong to others and ~~are used in a trade or business~~ supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does

not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

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

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service. "Employment service" does not include:

- (1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.
- (2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of

flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) ~~"Prepaid authorization number" means a numeric or alphanumeric combination that represents a prepaid account that can be used by the account holder solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.~~

~~(2) "Prepaid telephone calling card" means a tangible item that contains a prepaid authorization number that can be used solely to obtain telecommunications service, and includes any renewals or increases in the prepaid account.~~

(VV) "Lease" or "rental" means any transfer ~~for a consideration~~ of the

possession or control of and right to use, but not title to, tangible personal property for a fixed period of time greater than thirty days or for an open-ended period of time with a minimum fixed period of more than thirty days or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before the effective date of this amendment.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(WW)(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(XX)(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or

broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is

modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) Prior to July 1, 2004, "food" means cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.

(2) On and after July 1, 2004, "food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(3) As used in division (EEE)(2) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(3)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Sec. 5739.011. (A) As used in this section:

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale.

(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

(B) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;

(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;

(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;

(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;

(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;

(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;

(11) Parts, components, and repair and installation services for items described in division (B) of this section.

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:

(1) Tangible personal property used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;

(2) Tangible personal property used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form;

(3) Tangible personal property used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility;

(4) Tangible personal property that is or is to be incorporated into realty;

(5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;

(6) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation;

(7) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation;

(8) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility;

(9) Motor vehicles registered for operation on public highways.

(D) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale

made in this state.

(A)(1) ~~The tax shall be collected pursuant to the schedules as provided in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five per cent. The~~

~~The~~ tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

~~In~~ (2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of rentals for the use of the thing transferred the lease or rental of tangible personal property, the tax, as regards those rentals, shall be measured by the installments of those rentals that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service defined under division (MM) or (NN) of section

~~5739.01 of the Revised Code~~, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a ~~telephone or telegraph~~ company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal

Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) The Except for transactions that are sales under division (B)(3)(s) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the

Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the

organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division ~~(E)(2)(B)(43)(a)~~ or ~~(9)(g)~~ of this section 5739.01 ~~of the Revised Code~~, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division ~~(B)(16) of this section~~, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being, dispensed ~~by a licensed~~ pharmacist upon the order of a licensed health professional authorized to prescribe drugs to a human being, as the term "licensed health professional authorized to prescribe drugs" is defined in section 4729.01 of the Revised Code pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with ~~end-stage renal~~ medical disease; hospital beds when purchased for use by persons with medical problems for medical purposes; and medical oxygen and medical oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19)(a) Sales of ~~artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of the human body; crutches or other devices to aid human perambulation; and items of tangible personal property used to supplement impaired functions of the human body such as respiration, hearing, or elimination;~~

(b) Sales of ~~wheelchairs; items incorporated into or used in conjunction with a motor vehicle for the purpose of transporting wheelchairs, other than transportation conducted in connection with the sale or delivery of wheelchairs; and items incorporated into or used in conjunction with a motor vehicle that are specifically designed to assist a person with a disability to access or operate the motor vehicle. As used in this division, "person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or disabled to the extent that the person is unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other disabling condition.~~

(c) ~~No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.~~

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and

emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state upon the presentation of an affidavit executed in this state by the nonresident purchaser affirming that the purchaser is a nonresident of this state, that possession of the motor vehicle is taken in this state for the sole purpose of immediately removing it from this state, that the motor vehicle will be permanently titled and registered in another state, and that the motor vehicle will not be used in this state;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation

pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

- (a) To prepare food for human consumption for sale;
 - (b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;
 - (c) To clean tangible personal property used to prepare or serve food for human consumption for sale.
- (28) Sales of animals by nonprofit animal adoption services or county humane societies;
- (29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;
- (30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;
- (31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;
- (32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire;
- (33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;
- (34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division (B)(34) of this section shall be in lieu of all other ~~exceptions~~ exemptions under division ~~(E)(2)(B)(43)(a)~~ of this section 5739.01 of the Revised Code to which a ~~telecommunications service~~ the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.

(36)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(36)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(36) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(37) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(38) ~~The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the vanpool ridesharing~~

~~arrangement when the vendor is selling the vehicle pursuant to a contract between the vendor and the department of transportation;~~

(39) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

~~(40)~~(39) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

~~(41)~~(40) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

~~(42)~~(41) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other ~~exceptions~~ exemptions in division ~~(E)(2)(B)(43)(a)~~ of this section 5739.01 of the Revised Code to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(42) Sales to a person providing services under division (B)(3)(s) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(43) Sales where the purpose of the purchaser is to do any of the

following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(36) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (B)(43) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(44) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(45) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(46) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed

or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

~~As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. It does not include: spirituous liquors, wine, mixed beverages, or beer; soft drinks; sodas and beverages that are ordinarily dispensed at or in connection with bars and soda fountains, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.~~

~~(C)~~(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.021. (A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county may levy a tax at the rate of not more than one per

cent at any multiple of one-fourth of one per cent upon every retail sale made in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase the rate of an existing tax to not more than one per cent at any multiple of one-fourth of one per cent.

The tax shall be levied and the rate increased pursuant to a resolution of the board of county commissioners. The resolution shall state the purpose for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each such purpose. The rate or amount may be different for each year the tax is to be levied, but the rates or amounts actually apportioned each year shall not be different from that stated in the resolution for that year. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for such necessity. ~~A~~ The board shall deliver a certified copy of the resolution ~~shall be delivered to the tax commissioner either personally or by certified mail, not later than the sixtieth~~ sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of the calendar quarter.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

Except as provided in division (B)(3) of this section, the resolution shall ~~become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption,~~ be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code.

If a petition for a referendum is filed, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall

notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of a calendar quarter following the expiration of sixty-five days from the date the ~~petition was declared invalid by~~ commissioner receives notice from the board of elections ~~that the petition is invalid~~.

(B)(1) A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under this division shall go into effect unless approved by a majority of those voting upon it, and, except as provided in division (B)(3) of this section, shall become effective on the first day of a calendar quarter following the expiration of sixty-five days from the date ~~of notice to~~ the tax commissioner ~~by~~ receives notice from the board of elections of the affirmative vote.

(2) A resolution that is adopted as an emergency measure shall go into effect as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after a certified copy of the resolution is transmitted to the board of elections. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date ~~it received the~~ board and tax commissioner receive notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased

rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(3) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such ~~sales~~ a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one pursuant to division (H) of this section.~~

(C) If a resolution is rejected at a referendum or if a resolution adopted after January 1, 1982, as an emergency measure is repealed by the electors pursuant to division (B)(2) of this section or section 5739.022 of the Revised Code, then for one year after the date of the election at which the resolution was rejected or repealed the board of county commissioners may not adopt any resolution authorized by this section as an emergency measure.

(D) The board of county commissioners, at any time while a tax levied under this section is in effect, may by resolution reduce the rate at which the tax is levied to a lower rate authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day after ~~the certification~~ a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in

that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

Sec. 5739.022. (A) The question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax that was adopted as an emergency measure pursuant to section 5739.021 or 5739.026 of the Revised Code may be initiated by filing with the board of elections of the county not less than seventy-five days before the general election in any year a petition requesting that an election be held on the question. The question of repealing an increase in the rate of the county permissive tax shall be submitted to the electors as a separate question from the repeal of the tax in effect prior to the increase in the rate. Any petition filed under this section shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that the petition is valid, the board of elections shall submit the question to the electors of the county at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. The board of elections shall notify the tax commissioner, in writing, of the election upon determining that the petition is valid. Notice of the election shall also be published in a newspaper of general circulation in the district once a week for four consecutive weeks prior to the election, stating the purpose, the time, and the place of the election. The form of the ballot cast at the election shall be prescribed by the secretary of state; however, the ballot

question shall read, "shall the tax (or, increase in the rate of the tax) be retained?"

	Yes
	No

The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the ~~month~~ calendar quarter following the expiration of ~~thirty~~ sixty-five days after the date it receives the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (C) of this section.

Sec. 5739.023. (A)(1) For the purpose of providing additional general revenues for a transit authority and paying the expenses of administering such levy, any transit authority as defined in division (U) of section 5739.01 of the Revised Code may levy a tax upon every retail sale made in the

territory of the transit authority, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, at a rate of not more than one and one-half per cent at any multiple of one-fourth of one per cent and may increase the existing rate of tax to not more than one and one-half per cent at any multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution of the legislative authority of the transit authority and a certified copy of the resolution shall be delivered by the fiscal officer to the board of elections as provided in section 3505.071 of the Revised Code and to the tax commissioner. The resolution shall specify the number of years for which the tax is to be in effect or that the tax is for a continuing period of time, and the date of the election on the question of the tax pursuant to section 306.70 of the Revised Code. The board of elections shall certify the results of the election to the transit authority and tax commissioner.

(2) Except as provided in division (C) of this section, the tax levied by the resolution shall become effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the date the tax commissioner receives from the board of elections the certification of the results of the election on the question of the tax ~~by the board of elections~~.

(B) The legislative authority may, at any time while the tax is in effect, by resolution fix the rate of the tax at any rate authorized by this section and not in excess of that approved by the voters pursuant to section 306.70 of the Revised Code. Except as provided in division (C) of this section, any change in the rate of the tax shall be made effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the date the tax commissioner receives the certification of the resolution to the tax commissioner; provided, that in any case where bonds, or notes in anticipation of bonds, of a regional transit authority have been issued under section 306.40 of the Revised Code without a vote of the electors while the tax proposed to be reduced was in effect, the board of trustees of the regional transit authority shall continue to levy and collect under authority of the original election authorizing the tax a rate of tax that the board of trustees reasonably estimates will produce an amount in that year equal to the amount of principal of and interest on those bonds as is payable in that year.

(C) Upon receipt from the board of elections of the certification of the results of the election required by division (A) of this section, or from the legislative authority of the certification of a resolution under division (B) of this section, the tax commissioner shall provide notice of a tax rate change

in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one~~ pursuant to division (C) of this section.

~~(D)~~(E) The tax on every retail sale subject to a tax levied pursuant to this section is in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.026 of the Revised Code.

~~(E)~~(F) The additional tax levied by the transit authority shall be collected pursuant to section 5739.025 of the Revised Code.

~~(F)~~(G) Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a transit authority under the constitution of the United States or the constitution of this state.

~~(G)~~(H) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code, if a ballot question is approved by voters pursuant to that section.

Sec. 5739.025. As used in this section, "local tax" means a tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code.

(A) The taxes levied by sections 5739.02 and 5741.02 of the Revised Code shall be collected as follows:

(1) On and after July 1, 2003, and on or before June 30, 2005, in accordance with the following schedule:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.16</u>	<u>1¢</u>
<u>.17</u>	<u>.33</u>	<u>2¢</u>
<u>.34</u>	<u>.50</u>	<u>3¢</u>

<u>.51</u>	<u>.66</u>	<u>4¢</u>
<u>.67</u>	<u>.83</u>	<u>5¢</u>
<u>.84</u>	<u>1.00</u>	<u>6¢</u>

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.20	1¢
.21	.40	2¢
.41	.60	3¢
.61	.80	4¢
.81	1.00	5¢

If the price exceeds one dollar, the tax is five cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twenty cents, the amount of tax is five cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twenty cents, the amount of tax is five cents for each one dollar plus the amount of tax for prices twenty-one cents through ninety-nine cents in accordance with the schedule above.

(B) ~~The~~ On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

<u>If the price is at least</u>	<u>But not more than</u>	<u>The amount of the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.16</u>	<u>1¢</u>
<u>.17</u>	<u>.32</u>	<u>2¢</u>
<u>.33</u>	<u>.48</u>	<u>3¢</u>

<u>.49</u>	<u>.64</u>	<u>4¢</u>
<u>.65</u>	<u>.80</u>	<u>5¢</u>
<u>.81</u>	<u>.96</u>	<u>6¢</u>
<u>.97</u>	<u>1.12</u>	<u>7¢</u>
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.30</u>	<u>2¢</u>
<u>.31</u>	<u>.46</u>	<u>3¢</u>
<u>.47</u>	<u>.61</u>	<u>4¢</u>
<u>.62</u>	<u>.76</u>	<u>5¢</u>
<u>.77</u>	<u>.92</u>	<u>6¢</u>
<u>.93</u>	<u>1.07</u>	<u>7¢</u>

<u>1.08</u>	<u>1.23</u>	<u>8¢</u>
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(3) When the combined rate of state and local tax is six and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.29</u>	<u>2¢</u>
<u>.30</u>	<u>.44</u>	<u>3¢</u>
<u>.45</u>	<u>.59</u>	<u>4¢</u>
<u>.60</u>	<u>.74</u>	<u>5¢</u>
<u>.75</u>	<u>.88</u>	<u>6¢</u>
<u>.89</u>	<u>1.03</u>	<u>7¢</u>
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>

<u>3.41</u>	<u>3.55</u>	<u>24¢</u>
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.28</u>	<u>2¢</u>
<u>.29</u>	<u>.42</u>	<u>3¢</u>
<u>.43</u>	<u>.57</u>	<u>4¢</u>
<u>.58</u>	<u>.71</u>	<u>5¢</u>
<u>.72</u>	<u>.85</u>	<u>6¢</u>
<u>.86</u>	<u>1.00</u>	<u>7¢</u>

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of state and local tax is seven and one-fourth per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.27</u>	<u>2¢</u>
<u>.28</u>	<u>.41</u>	<u>3¢</u>
<u>.42</u>	<u>.55</u>	<u>4¢</u>
<u>.56</u>	<u>.68</u>	<u>5¢</u>

<u>.69</u>	<u>.82</u>	<u>6¢</u>
<u>.83</u>	<u>.96</u>	<u>7¢</u>
<u>.97</u>	<u>1.10</u>	<u>8¢</u>
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.26</u>	<u>2¢</u>

<u>.27</u>	<u>.40</u>	<u>3¢</u>
<u>.41</u>	<u>.53</u>	<u>4¢</u>
<u>.54</u>	<u>.65</u>	<u>5¢</u>
<u>.66</u>	<u>.80</u>	<u>6¢</u>
<u>.81</u>	<u>.93</u>	<u>7¢</u>
<u>.94</u>	<u>1.06</u>	<u>8¢</u>
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(7) When the combined rate of state and local tax is seven and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.25</u>	<u>2¢</u>
<u>.26</u>	<u>.38</u>	<u>3¢</u>
<u>.39</u>	<u>.51</u>	<u>4¢</u>
<u>.52</u>	<u>.64</u>	<u>5¢</u>
<u>.65</u>	<u>.77</u>	<u>6¢</u>
<u>.78</u>	<u>.90</u>	<u>7¢</u>
<u>.91</u>	<u>1.03</u>	<u>8¢</u>
<u>1.04</u>	<u>1.16</u>	<u>9¢</u>
<u>1.17</u>	<u>1.29</u>	<u>10¢</u>
<u>1.30</u>	<u>1.41</u>	<u>11¢</u>
<u>1.42</u>	<u>1.54</u>	<u>12¢</u>
<u>1.55</u>	<u>1.67</u>	<u>13¢</u>
<u>1.68</u>	<u>1.80</u>	<u>14¢</u>
<u>1.81</u>	<u>1.93</u>	<u>15¢</u>
<u>1.94</u>	<u>2.06</u>	<u>16¢</u>

<u>2.07</u>	<u>2.19</u>	<u>17¢</u>
<u>2.20</u>	<u>2.32</u>	<u>18¢</u>
<u>2.33</u>	<u>2.45</u>	<u>19¢</u>
<u>2.46</u>	<u>2.58</u>	<u>20¢</u>
<u>2.59</u>	<u>2.70</u>	<u>21¢</u>
<u>2.71</u>	<u>2.83</u>	<u>22¢</u>
<u>2.84</u>	<u>2.96</u>	<u>23¢</u>
<u>2.97</u>	<u>3.09</u>	<u>24¢</u>
<u>3.10</u>	<u>3.22</u>	<u>25¢</u>
<u>3.23</u>	<u>3.35</u>	<u>26¢</u>
<u>3.36</u>	<u>3.48</u>	<u>27¢</u>
<u>3.49</u>	<u>3.61</u>	<u>28¢</u>
<u>3.62</u>	<u>3.74</u>	<u>29¢</u>
<u>3.75</u>	<u>3.87</u>	<u>30¢</u>
<u>3.88</u>	<u>4.00</u>	<u>31¢</u>

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but by not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of state and local tax is eight per cent:

<u>If the price</u>	<u>But not more than</u>	<u>The amount of</u>
<u>is at least</u>		<u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.25</u>	<u>2¢</u>
<u>.26</u>	<u>.37</u>	<u>3¢</u>
<u>.38</u>	<u>.50</u>	<u>4¢</u>
<u>.51</u>	<u>.62</u>	<u>5¢</u>
<u>.63</u>	<u>.75</u>	<u>6¢</u>
<u>.76</u>	<u>.87</u>	<u>7¢</u>
<u>.88</u>	<u>1.00</u>	<u>8¢</u>

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents

but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

(9) When the combined rate of state and local tax is eight and one-fourth per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.24</u>	<u>2¢</u>
<u>.25</u>	<u>.36</u>	<u>3¢</u>
<u>.37</u>	<u>.48</u>	<u>4¢</u>
<u>.49</u>	<u>.60</u>	<u>5¢</u>
<u>.61</u>	<u>.72</u>	<u>6¢</u>
<u>.73</u>	<u>.84</u>	<u>7¢</u>
<u>.85</u>	<u>.96</u>	<u>8¢</u>
<u>.97</u>	<u>1.09</u>	<u>9¢</u>
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>

<u>3.76</u>	<u>3.87</u>	<u>32¢</u>
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.23</u>	<u>2¢</u>
<u>.24</u>	<u>.35</u>	<u>3¢</u>
<u>.36</u>	<u>.47</u>	<u>4¢</u>
<u>.48</u>	<u>.58</u>	<u>5¢</u>
<u>.59</u>	<u>.70</u>	<u>6¢</u>
<u>.71</u>	<u>.82</u>	<u>7¢</u>
<u>.83</u>	<u>.94</u>	<u>8¢</u>
<u>.95</u>	<u>1.05</u>	<u>9¢</u>
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but by not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the

amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of state and local tax is eight and three-fourths per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.22</u>	<u>2¢</u>
<u>.23</u>	<u>.34</u>	<u>3¢</u>
<u>.35</u>	<u>.45</u>	<u>4¢</u>
<u>.46</u>	<u>.57</u>	<u>5¢</u>
<u>.58</u>	<u>.68</u>	<u>6¢</u>
<u>.69</u>	<u>.80</u>	<u>7¢</u>
<u>.81</u>	<u>.91</u>	<u>8¢</u>
<u>.92</u>	<u>1.02</u>	<u>9¢</u>
<u>1.03</u>	<u>1.14</u>	<u>10¢</u>
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>

<u>3.78</u>	<u>3.88</u>	<u>34¢</u>
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>

If the price exceeds four dollars, the tax is thirty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-two cents, the amount of tax is thirty-five cents for each four dollars plus the amount of tax for prices twenty-three cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

<u>If the price</u> <u>is at least</u>	<u>But not more than</u>	<u>The amount of</u> <u>the tax is</u>
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>
<u>.16</u>	<u>.22</u>	<u>2¢</u>
<u>.23</u>	<u>.33</u>	<u>3¢</u>
<u>.34</u>	<u>.44</u>	<u>4¢</u>
<u>.45</u>	<u>.55</u>	<u>5¢</u>
<u>.56</u>	<u>.66</u>	<u>6¢</u>
<u>.67</u>	<u>.77</u>	<u>7¢</u>
<u>.78</u>	<u>.88</u>	<u>8¢</u>
<u>.89</u>	<u>1.00</u>	<u>9¢</u>

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance with the schedule above.

(C) On and after July 1, 2005, and on and before December 31, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the total rate of local tax is one-fourth per cent:

<u>If the price</u>	<u>But not</u>	<u>The amount</u>

is at least	more than	of the tax is
\$.01	\$.15	No tax
.16	.19	1¢
.20	.38	2¢
.39	.57	3¢
.58	.76	4¢
.77	.95	5¢
.96	1.14	6¢
1.15	1.33	7¢
1.34	1.52	8¢
1.53	1.71	9¢
1.72	1.90	10¢
1.91	2.09	11¢
2.10	2.28	12¢
2.29	2.47	13¢
2.48	2.66	14¢
2.67	2.85	15¢
2.86	3.04	16¢
3.05	3.23	17¢
3.24	3.42	18¢
3.43	3.61	19¢
3.62	3.80	20¢
3.81	4.00	21¢

If the price exceeds four dollars, the tax is twenty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than nineteen cents, the amount of tax is twenty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than nineteen cents, the amount of tax is twenty-one cents for each four dollars plus the amount of tax for prices twenty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of local tax is one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.18	1¢
.19	.36	2¢
.37	.54	3¢
.55	.72	4¢
.73	.90	5¢
.91	1.09	6¢

1.10	1.27	7¢
1.28	1.46	8¢
1.47	1.64	9¢
1.65	1.82	10¢
1.83	2.00	11¢

If the price exceeds two dollars, the tax is eleven cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eighteen cents, the amount of tax is eleven cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eighteen cents, the amount of tax is eleven cents for each two dollars plus the amount of tax for prices nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(3) When the combined rate of local tax is three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.52	3¢
.53	.69	4¢
.70	.86	5¢
.87	1.04	6¢
1.05	1.21	7¢
1.22	1.39	8¢
1.40	1.56	9¢
1.57	1.73	10¢
1.74	1.91	11¢
1.92	2.08	12¢
2.09	2.26	13¢
2.27	2.43	14¢
2.44	2.60	15¢
2.61	2.78	16¢
2.79	2.95	17¢
2.96	3.13	18¢
3.14	3.30	19¢
3.31	3.47	20¢
3.48	3.65	21¢
3.66	3.82	22¢
3.83	4.00	23¢

If the price exceeds four dollars, the tax is twenty-three cents on each

four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of local tax is one per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.17	1¢
.18	.34	2¢
.35	.50	3¢
.51	.67	4¢
.68	.83	5¢
.84	1.00	6¢

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of local tax is one and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.16	1¢
.17	.32	2¢
.33	.48	3¢
.49	.64	4¢
.65	.80	5¢
.81	.96	6¢
.97	1.12	7¢
1.13	1.28	8¢
1.29	1.44	9¢
1.45	1.60	10¢
1.61	1.76	11¢
1.77	1.92	12¢

1.93	2.08	13¢
2.09	2.24	14¢
2.25	2.40	15¢
2.41	2.56	16¢
2.57	2.72	17¢
2.73	2.88	18¢
2.89	3.04	19¢
3.05	3.20	20¢
3.21	3.36	21¢
3.37	3.52	22¢
3.53	3.68	23¢
3.69	3.84	24¢
3.85	4.00	25¢

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of local tax is one and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.30	2¢
.31	.46	3¢
.47	.61	4¢
.62	.76	5¢
.77	.92	6¢
.93	1.07	7¢
1.08	1.23	8¢
1.24	1.38	9¢
1.39	1.53	10¢
1.54	1.69	11¢
1.70	1.84	12¢
1.85	2.00	13¢

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more

than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(7) When the combined rate of local tax is one and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.29	2¢
.30	.44	3¢
.45	.59	4¢
.60	.74	5¢
.75	.88	6¢
.89	1.03	7¢
1.04	1.18	8¢
1.19	1.33	9¢
1.34	1.48	10¢
1.49	1.62	11¢
1.63	1.77	12¢
1.78	1.92	13¢
1.93	2.07	14¢
2.08	2.22	15¢
2.23	2.37	16¢
2.38	2.51	17¢
2.52	2.66	18¢
2.67	2.81	19¢
2.82	2.96	20¢
2.97	3.11	21¢
3.12	3.25	22¢
3.26	3.40	23¢
3.41	3.55	24¢
3.56	3.70	25¢
3.71	3.85	26¢
3.86	4.00	27¢

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If

the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of local tax is two per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.28	2¢
.29	.42	3¢
.43	.57	4¢
.58	.71	5¢
.72	.85	6¢
.86	1.00	7¢

If the price exceeds one dollar, the tax is seven cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than fifteen cents, the amount of tax is seven cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than fifteen cents, the amount of tax is seven cents for each one dollar plus the amount of tax for prices sixteen cents through ninety-nine cents in accordance with the schedule above.

(9) When the combined rate of local tax is two and one-fourth per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.27	2¢
.28	.41	3¢
.42	.55	4¢
.56	.68	5¢
.69	.82	6¢
.83	.96	7¢
.97	1.10	8¢
1.11	1.24	9¢
1.25	1.37	10¢
1.38	1.51	11¢
1.52	1.65	12¢
1.66	1.79	13¢
1.80	1.93	14¢
1.94	2.06	15¢
2.07	2.20	16¢

2.21	2.34	17¢
2.35	2.48	18¢
2.49	2.62	19¢
2.63	2.75	20¢
2.76	2.89	21¢
2.90	3.03	22¢
3.04	3.17	23¢
3.18	3.31	24¢
3.32	3.44	25¢
3.45	3.58	26¢
3.59	3.72	27¢
3.73	3.86	28¢
3.87	4.00	29¢

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of local tax is two and one-half per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.26	2¢
.27	.40	3¢
.41	.53	4¢
.54	.65	5¢
.66	.80	6¢
.81	.93	7¢
.94	1.06	8¢
1.07	1.20	9¢
1.21	1.33	10¢
1.34	1.46	11¢
1.47	1.60	12¢
1.61	1.73	13¢
1.74	1.86	14¢

1.87

2.00

15¢

If the price exceeds two dollars, the tax is fifteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is fifteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(11) When the combined rate of local tax is two and three-fourths per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.25	2¢
.26	.38	3¢
.39	.51	4¢
.52	.64	5¢
.65	.77	6¢
.78	.90	7¢
.91	1.03	8¢
1.04	1.16	9¢
1.17	1.29	10¢
1.30	1.41	11¢
1.42	1.54	12¢
1.55	1.67	13¢
1.68	1.80	14¢
1.81	1.93	15¢
1.94	2.06	16¢
2.07	2.19	17¢
2.20	2.32	18¢
2.33	2.45	19¢
2.46	2.58	20¢
2.59	2.70	21¢
2.71	2.83	22¢
2.84	2.96	23¢
2.97	3.09	24¢
3.10	3.22	25¢
3.23	3.35	26¢
3.36	3.48	27¢
3.49	3.61	28¢

3.62	3.74	29¢
3.75	3.87	30¢
3.88	4.00	31¢

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-five cents, the amount of tax is thirty-one cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of local tax is three per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.25	2¢
.26	.37	3¢
.38	.50	4¢
.51	.62	5¢
.63	.75	6¢
.76	.87	7¢
.88	1.00	8¢

If the price exceeds one dollar, the tax is eight cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than twelve cents, the amount of tax is eight cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than twelve cents but not more than twenty-five cents, the amount of tax is eight cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-five cents, the amount of tax is eight cents for each one dollar plus the amount of tax for prices twenty-six cents through ninety-nine cents in accordance with the schedule above.

~~(C)~~(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A) ~~and~~, (B), ~~and~~ (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections ~~5739.01~~ 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022,

and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. A vendor may elect to compute the tax due on a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider the method prescribed by this section that was used by the vendor in determining and collecting the tax due under this chapter on taxable transactions. If the vendor correctly collects and remits the tax due under this chapter in accordance with the schedules in divisions (A) ~~and~~, (B), and (C) of this section or in accordance with the computation prescribed in division ~~(C)~~(D) or (E) of this section, the commissioner shall not assess any additional tax on those transactions.

(G)(1) With respect to a sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program, including all accessories attached to such aircraft, the tax shall be calculated pursuant to divisions (A) to (E) of this section, provided that the tax commissioner shall modify those calculations so that the maximum tax on each program aircraft is eight hundred dollars. In the case of a sale of a fractional interest that is less than one hundred per cent of the program aircraft, the tax charged on the transaction shall be eight hundred dollars multiplied by a fraction, the numerator of which is the percentage of ownership or possession in the aircraft being purchased in the transaction, and the denominator of which is one hundred per cent.

(2) Notwithstanding any other provision of law to the contrary, the tax calculated under division (G)(1) of this section and paid with respect to the sale of a fractional ownership program aircraft used primarily in a fractional aircraft ownership program shall be credited to the general revenue fund.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may

increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in divisions (A)(1) to (5) of this section and shall prescribe the method for

allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor more than ten days after the first. Notice of the date, time, and place of the hearings shall be given by publication in a newspaper of general circulation in the county once a week on the same day of the week for two consecutive

weeks, the second publication being no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall ~~become effective on the first day of a calendar quarter following the expiration of sixty days from the date of its adoption,~~ be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), or (9) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not

so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which shall be not less than seventy-five days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall

not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth day following the ~~certification of the results of the election to date~~ the board of county commissioners and the tax commissioner by receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than seventy-five days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date ~~of the notice to~~ the tax commissioner by receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than seventy-five days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question

of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date ~~at the board and tax commissioner~~ received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter ~~specified in the resolution, but not sooner than the first day of the month~~ next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution is certified to the tax commissioner~~ receives a certified copy of the resolution from the board.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner ~~to the vendor, or to the vendor's certified service provider, if the vendor has selected one~~ pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all

affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.03. Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(A) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(B) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

If any sale is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer must furnish to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the sale is not legally subject to the tax. If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be signed by both the contractor and the contractee and such contractee shall be deemed to be the consumer of all items purchased under such claim of exemption in the event it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by regulation prescribes. If no certificate is furnished or obtained within the period for filing the return for the period in which such sale is consummated, it shall be presumed that the tax applies. ~~The~~ Failure to have so furnished, or to have so obtained, a certificate shall not prevent a vendor or consumer from

establishing that the sale is not ~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of the giving of notice by the commissioner of intention to levy an ~~assasment~~ assessment, in which event the tax shall not apply.

Certificates need not be obtained nor furnished where the identity of the consumer is such that the transaction is never subject to the tax imposed or where the item of tangible personal property sold or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.

(C) As used in this division, "contractee" means a person who seeks to enter or enters into a contract or agreement with a contractor or vendor for the construction of real property or for the sale and installation onto real property of tangible personal property.

Any contractor or vendor may request from any contractee a certification of what portion of the property to be transferred under such contract or agreement is to be incorporated into the realty and what portion will retain its status as tangible personal property after installation is completed. The contractor or vendor shall request the certification by certified mail delivered to the contractee, return receipt requested. Upon receipt of such request and prior to entering into the contract or agreement, the contractee shall furnish to the contractor or vendor a certification sufficiently detailed to enable the contractor or vendor to ascertain the resulting classification of all materials purchased or fabricated by the contractor or vendor and transferred to the contractee. This requirement applies to a contractee regardless of whether the contractee holds a direct payment permit under section 5739.031 of the Revised Code or furnishes to the contractor or vendor an exemption certificate as provided under this section.

For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials.

If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without

the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax and the construction contractor or vendor shall be excused from any liability on those materials.

This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor.

(D) Notwithstanding division (B) of section 5739.01 of the Revised Code, whenever the total rate of tax imposed under this chapter is increased after the date after a construction contract is entered into, the contractee shall reimburse the construction contractor for any additional tax paid on tangible property consumed or services received pursuant to the contract.

(E) A vendor who files a petition for reassessment contesting the assessment of tax on sales for which the vendor obtained no valid exemption certificates and for which the vendor failed to establish that the sales were properly not subject to the tax during the one-hundred-twenty-day period allowed under division (B) of this section, may present to the tax commissioner additional evidence to prove that the sales were properly subject to a claim of exception or exemption. The vendor shall file such evidence within ninety days of the receipt by the vendor of the notice of assessment, except that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds to the consumer the full price of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the full amount of the tax paid.

Sec. 5739.032. (A) If the total amount of tax required to be paid by a permit holder under section 5739.031 of the Revised Code for any calendar year ~~indicated in the following schedule~~ equals or exceeds ~~the amounts prescribed for that year in the schedule~~ seventy-five thousand dollars, the permit holder shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

Year	1992	1993 through 1999	2000 and thereafter
Tax	\$1,200,000	\$600,000	\$60,000
payment			

If a permit holder's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the permit holder is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each permit holder required to remit taxes by electronic funds transfer of the permit holder's obligation to do so, shall maintain an updated list of those permit holders, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a permit holder subject to this section to remit taxes by electronic funds transfer does not relieve the permit holder of its obligation to remit taxes by electronic funds transfer.

(B) Permit holders required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, a permit holder shall remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the permit holder's total tax liability for the same month in the preceding calendar year.

(2) On or before the twenty-third day of each month, a permit holder shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) of this section.

The payment of taxes by electronic funds transfer does not affect a permit holder's obligation to file the monthly return as required under section 5739.031 of the Revised Code.

(C) A permit holder required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the permit holder from remittance by electronic funds transfer for good cause shown for the period of time requested by the permit holder or for a portion of that period. The treasurer of state shall notify the tax commissioner and the permit holder of the treasurer of state's decision as soon as is practicable.

(D)(1) If a permit holder that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a permit holder required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under division (D)(1) or (2) of this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a permit holder that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be imposed upon the remittance of any subsequent tax payment that the permit holder remits by some means other than electronic funds transfer.

Sec. 5739.033. The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the situs of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 of the Revised Code.

(A) Except as otherwise provided in this section, division (C) of section 5739.031, and section 5739.034 of the Revised Code, the situs of all sales is the vendor's place of business.

(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business.

(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or

takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received.

(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), ~~or (o), (r), (s), or (t)~~ of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.

(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property.

(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made.

(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received.

(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), ~~or (m), (q), or (u)~~ of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or received.

(F) ~~Except as provided in division (I) or (J) of this section:~~

~~(1) If the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs of the sale is the location of the telephone number or account as reflected in the records of the vendor.~~

~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated.~~

(G) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located.

~~(H)~~(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the

Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling.

~~(F)~~(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.

Sec. 5739.034. (A) As used in this section:

(1) "Air-to-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(3) "Customer" means the person or entity that contracts with a seller of telecommunications service. If the end user of telecommunications service is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. "Customer" does not include a reseller of telecommunications service or of mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(4) "End user" means the person who utilizes the telecommunications service. In the case of a person other than an individual, "end user" means the individual who utilizes the service on behalf of the person.

(5) "Home service provider" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended.

(6) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(7) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. "Post-paid calling service" includes a telecommunications service that would be a prepaid calling service, but for the fact that it is not exclusively a telecommunications service.

(8) "Prepaid calling service" means the right to access exclusively a telecommunications service that must be paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(9) "Service address" means:

(a) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.

(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.

(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.

(D) Except for the telecommunications services described in division (E) of this section, a sale of telecommunications services sold on a basis

other than a call-by-call basis shall be sourced to the customer's place of primary use.

(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows:

(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service made prior to January 1, 2004, shall be sourced under division (H) of section 5739.033 of the Revised Code. On and after January 1, 2004, a sale of mobile telecommunications service that is a prepaid telecommunications service shall be sourced under division (A)(5) of section 5739.033 of the Revised Code, but in lieu of sourcing the sale of the service under that section, it may be sourced to the location associated with the mobile telephone number.

Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. Except as provided in divisions (A)(2), (3), ~~and (4)~~, and (5) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on the transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of the

remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. Except as provided in division (A)(2), (3), ~~or (4)~~, or (5) or (H) of this section, on and after May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered into under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board

of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

Division (A)(3) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

As used in division (A)(3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(4) A board of county commissioners that levies a tax under division (A)(1) of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division (A)(1) of this section;

(d) That the increase in rate shall not be subject to diminution by

initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

As used in division (A)(4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(5)(a) As used in division (A)(5) of this section:

(i) "Port authority" means a port authority created under Chapter 4582. of the Revised Code.

(ii) "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard.

(b) For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following:

(i) Amend a resolution previously adopted under division (A)(1) of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division;

(ii) Amend a resolution previously adopted under division (A)(1) of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue from the increase exclusively for that purpose.

(c) If a board of county commissioners amends a resolution to increase the rate of a tax as authorized in division (A)(5)(b)(ii) of this section, the board also may amend the resolution to specify that the increase in rate of the tax does not apply to "hotels," as otherwise defined in section 5739.01 of the Revised Code, having fewer rooms used for the accommodation of guests than a number of rooms specified by the board.

(B)(1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be

furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.

(2) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under division (A)(4) of this section may amend, on or before September 30, 2002, that municipal corporation's ordinance or resolution that levies an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests, to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional one per cent on each transaction;

(b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before May 15, 2002, and be used to pay costs of constructing, expanding, maintaining, operating, or promoting a convention center in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter;

(c) That the increase in rate shall not be subject to diminution by initiative or referendum or by law while any bonds, or notes in anticipation of bonds, issued by the authority under Chapter 351. of the Revised Code to which the revenue is pledged, remain outstanding in accordance with their terms, unless provision is made by law, by the board of county commissioners, or by the legislative authority, for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the

bonds.

As used in division (B)(2) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(C) For the purpose of making the payments authorized by section 307.695 of the Revised Code to construct and equip a convention center in the county and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (A) of section 5739.08 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this division shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue from the tax has been pledged pursuant to that section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to section 5739.08 of the

Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the legislative authority of a county, by resolution adopted within ninety days after June 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to section 5739.08 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative

authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and this division. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

(F) The legislative authority of a county that has levied a tax under division (E) of this section may, by resolution adopted within one hundred eighty days after January 4, 2001, by a majority of the members of the legislative authority, amend the resolution levying a tax under that division to provide for the use of the proceeds of that tax, to the extent that it is no longer needed for its original purpose as determined by the parties to a cooperative agreement amendment pursuant to division (D) of section 307.672 of the Revised Code, to pay costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, and to pay all obligations under any guaranty agreements, reimbursement agreements, or other credit enhancement agreements described in division (C) of section 307.674 of the Revised Code. The resolution may also provide for the extension of the tax at the same rate for the longer of the period of time determined by the legislative authority of the county, but not to exceed an additional twenty-five years, or the period of time required to pay all debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code and on port authority revenue bonds provided for in division (B) of section 307.674 of the Revised Code. All revenues arising from the amendment and extension of the tax shall be expended in accordance with section 307.674 of the Revised Code, this division, and division (E) of this section.

(G) For purposes of a tax levied by a county, township, or municipal corporation under this section or section 5739.08 of the Revised Code, a board of county commissioners, board of township trustees, or the

legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes establishments in which fewer than five rooms are used for the accommodation of guests. The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.

(H)(1) As used in this division:

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) Notwithstanding any contrary provision of division (D) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division (D) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division (D) of this section for a period of time determined by the legislative authority of the county, but not to exceed an additional forty years.

(3) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted by a majority of the members of the legislative authority, increase the rate of the tax levied by such county under division (A)(1) of this section to a rate not to exceed five per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding any contrary provision of division (A)(1) of this section, the resolution may provide that all collections resulting from the rate levied in excess of three per cent, after deducting the real and actual costs of administering the tax, shall be deposited in the county general fund.

(4) The legislative authority of a county with a population of one million or more that has levied a tax under division (A)(1) of this section may, by resolution adopted on or before August 30, 2004, by a majority of

the members of the legislative authority, provide that all or a portion of the proceeds of the tax levied under division (A)(1) of this section, after deducting the real and actual costs of administering the tax and the amounts required to be returned to townships and municipal corporations with respect to the first three per cent levied under division (A)(1) of this section, shall be deposited in the county general fund, provided that such proceeds shall be used to satisfy any pledges made in connection with an agreement entered into under section 307.695 of the Revised Code.

(5) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section shall be contributed to a convention facilities authority, corporation, or other entity created after July 1, 2003, for the principal purpose of constructing, improving, expanding, equipping, financing, or operating a convention center unless the mayor of the municipal corporation in which the convention center is to be operated by that convention facilities authority, corporation, or other entity has consented to the creation of that convention facilities authority, corporation, or entity. Notwithstanding any contrary provision of section 351.04 of the Revised Code, if a tax is levied by a county under division (H) of this section, the board of county commissioners of that county may determine the manner of selection, the qualifications, the number, and terms of office of the members of the board of directors of any convention facilities authority, corporation, or other entity described in division (H)(5) of this section.

(6)(a) No amount collected from a tax levied, extended, or required to be deposited in the county general fund under division (H) of this section may be used for any purpose other than paying the direct and indirect costs of constructing, improving, expanding, equipping, financing, or operating a convention center and for the real and actual costs of administering the tax, unless, prior to the adoption of the resolution of the legislative authority of the county authorizing the levy, extension, increase, or deposit, the county and the mayor of the most populous municipal corporation in that county have entered into an agreement as to the use of such amounts, provided that such agreement has been approved by a majority of the mayors of the other municipal corporations in that county. The agreement shall provide that the amounts to be used for purposes other than paying the convention center or administrative costs described in division (H)(6)(a) of this section be used only for the direct and indirect costs of capital improvements, including the financing of capital improvements.

(b) If the county in which the tax is levied has an association of mayors and city managers, the approval of that association of an agreement

described in division (H)(6)(a) of this section shall be considered to be the approval of the majority of the mayors of the other municipal corporations for purposes of that division.

(7) Each year, the auditor of state shall conduct an audit of the uses of any amounts collected from taxes levied, extended, or deposited under division (H) of this section and shall prepare a report of the auditor of state's findings. The auditor of state shall submit the report to the legislative authority of the county that has levied, extended, or deposited the tax, the speaker of the house of representatives, the president of the senate, and the leaders of the minority parties of the house of representatives and the senate.

Sec. 5739.10. (A) In addition to the tax levied ~~in~~ by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure the same objectives specified in ~~said those~~ sections, there is hereby levied upon the privilege of engaging in the business of making retail sales, an excise tax of six per cent on and after July 1, 2003, and on and before June 30, 2005, and an excise tax of five per cent on and after July 1, 2005, or, in the case of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts derived from all retail sales, except ~~retail sales under sixteen cents and those to which the excise tax imposed by section 5739.02 of the Revised Code is made inapplicable by division (B) of said that~~ section.

(B) For the purpose of this section, no vendor shall be required to maintain records of ~~individual retail sales of tangible personal property under sixteen cents or~~ sales of food for human consumption off the premises where sold, and no assessment shall be made against any vendor for ~~retail sales of less than sixteen cents or for sales of food for human consumption off the premises where sold, solely because the vendor has no records of, or has inadequate records of, retail sales of less than sixteen cents or such sales of food for human consumption off the premises where sold;~~ provided that where a vendor does not have adequate records of receipts from ~~his retail sales in excess of fifteen cents or the vendor's~~ sales of food for human consumption on the premises where sold, the tax commissioner may refuse to accept the vendor's return and, upon the basis of test checks of the vendor's business for a representative period, and other information relating to the sales made by such vendor, determine the proportion that taxable retail sales bear to all ~~his~~ of the vendor's retail sales. The tax imposed by this section shall be determined by deducting from the sum representing five or six per cent, as applicable under division (A) of this section, or, in the case

of retail sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code of the receipts from such retail sales, the amount of tax paid to the state or to a clerk of a court of common pleas. The section does not affect any duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the liability of any consumer to pay any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.12. (A) Each person who has or is required to have a vendor's license, on or before the twenty-third day of each month, shall make and file a return for the preceding month, on forms prescribed by the tax commissioner, and shall pay the tax shown on the return to be due. The commissioner may require a vendor that operates from multiple locations or has multiple vendor's licenses to report all tax liabilities on one consolidated return. The return shall show the amount of tax due from the vendor to the state for the period covered by the return and such other information as the commissioner deems necessary for the proper administration of this chapter. The commissioner may extend the time for making and filing returns and paying the tax, and may require that the return for the last month of any annual or semiannual period, as determined by the commissioner, be a reconciliation return detailing the vendor's sales activity for the preceding annual or semiannual period. The reconciliation return shall be filed by the last day of the month following the last month of the annual or semiannual period. The commissioner may remit all or any part of amounts or penalties that may become due under this chapter and may adopt rules relating thereto. Such return shall be filed by mailing it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided for under this section. Remittance shall be made payable to the treasurer of state. The return shall be considered filed when received by the tax commissioner, and the payment shall be considered made when received by the tax commissioner or when credited to an account designated by the treasurer of state or the tax commissioner.

(B) If the return is filed and the amount of tax shown thereon to be due is paid on or before the date such return is required to be filed, the vendor shall be entitled to a the following discount of three-fourths:

(1) On and after July 1, 2003, and on and before June 30, 2005, nine-tenths of one per cent of the amount shown to be due on the return;

(2) On and after July 1, 2005, three-fourths of one per cent of the amount shown to be due on the return, but a.

A vendor that has selected a certified service provider as its agent shall not be entitled to the discount. Amounts paid to the clerk of courts pursuant to section 4505.06 of the Revised Code shall be subject to the ~~three-fourths of one per cent~~ applicable discount. The discount shall be in consideration for prompt payment to the clerk of courts and for other services performed by the vendor in the collection of the tax.

(C)(1) Upon application to the commissioner, a vendor who is required to file monthly returns may be relieved of the requirement to report and pay the actual tax due, provided that the vendor agrees to remit to the tax commissioner payment of not less than an amount determined by the commissioner to be the average monthly tax liability of the vendor, based upon a review of the returns or other information pertaining to such vendor for a period of not less than six months nor more than two years immediately preceding the filing of the application. Vendors who agree to the above conditions shall make and file an annual or semiannual reconciliation return, as prescribed by the commissioner. The reconciliation return shall be filed by mailing or delivering it to the tax commissioner, together with payment of the amount of tax shown to be due thereon after deduction of any discount provided in this section. Remittance shall be made payable to the treasurer of state. Failure of a vendor to comply with any of the above conditions may result in immediate reinstatement of the requirement of reporting and paying the actual tax liability on each monthly return, and the commissioner may at the commissioner's discretion deny the vendor the right to report and pay based upon the average monthly liability for a period not to exceed two years. The amount ascertained by the commissioner to be the average monthly tax liability of a vendor may be adjusted, based upon a review of the returns or other information pertaining to the vendor for a period of not less than six months nor more than two years preceding such adjustment.

(2) The commissioner may authorize vendors whose tax liability is not such as to merit monthly returns, as ascertained by the commissioner upon the basis of administrative costs to the state, to make and file returns at less frequent intervals. When returns are filed at less frequent intervals in accordance with such authorization, the vendor shall be allowed the discount ~~of three-fourths of one per cent~~ provided in this section in consideration for prompt payment with the return, provided the return is filed together with payment of the amount of tax shown to be due thereon, at the time specified by the commissioner, but a vendor that has selected a certified service provider as its agent shall not be entitled to the discount.

(D) Any vendor who fails to file a return or pay the full amount of the

tax shown on the return to be due under this section and the rules of the commissioner may, for each such return the vendor fails to file or each such tax the vendor fails to pay in full as shown on the return within the period prescribed by this section and the rules of the commissioner, be required to forfeit and pay into the state treasury an additional charge not exceeding fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater, as revenue arising from the tax imposed by this chapter, and such sum may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating to the imposition and remission of the additional charge.

(E) If the amount required to be collected by a vendor from consumers is in excess of ~~five per cent~~ the applicable percentage of the vendor's receipts from sales that are taxable under section 5739.02 of the Revised Code, or in the case of sales subject to a tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, in excess of the percentage equal to the aggregate rate of such taxes and the tax levied by section 5739.02 of the Revised Code, such excess shall be remitted along with the remittance of the amount of tax due under section 5739.10 of the Revised Code.

(F) The commissioner, if the commissioner deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or the vendor's authorized agent.

(G) Any vendor required to file a return and pay the tax under this section, whose total payment ~~in any year indicated in division (A) of section 5739.122 of the Revised Code~~ equals or exceeds the amount shown in ~~that~~ division (A) of section 5739.122 of the Revised Code, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.121. (A) As used in this section, "bad debt" means any debt that has become worthless or uncollectible in the time period between a vendor's preceding return and the present return, ~~have~~ has been uncollected

for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the vendor kept accounts on an accrual basis. "Bad debt" does not include any interest or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the vendor until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or for any portion of the debt recovered, ~~any accounts receivable that have been sold to a third party for collection,~~ and repossessed property.

(B) In computing taxable receipts for purposes of this chapter, a vendor may deduct the amount of bad debts, ~~as defined in this section.~~ The amount deducted must be charged off as uncollectible on the books of the vendor. A deduction may be claimed only with respect to bad debts on which the taxes pursuant to sections 5739.10 and 5739.12 of the Revised Code were paid in a preceding tax period. If the vendor's business consists of taxable and nontaxable transactions, the deduction shall equal the full amount of the debt if the debt is documented as a taxable transaction in the vendor's records. If no such documentation is available, the maximum deduction on any bad debt shall equal the amount of the bad debt multiplied by the quotient obtained by dividing the sales taxed pursuant to this chapter during the preceding calendar year by all sales during the preceding calendar year, whether taxed or not. If a consumer or other person pays all or part of a bad debt with respect to which a vendor claimed a deduction under this section, the vendor shall be liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit such taxes in the vendor's next payment to the tax commissioner.

(C) Any claim for a bad debt deduction under this section shall be supported by such evidence as the tax commissioner by rule requires. The commissioner shall review any change in the rate of taxation applicable to any taxable sales by a vendor claiming a deduction pursuant to this section and adopt rules for altering the deduction in the event of such a change in order to ensure that the deduction on any bad debt does not result in the vendor claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(D) In any reporting period in which the amount of bad debt exceeds the amount of taxable sales for the period, the vendor may file a refund claim for any tax collected on the bad debt in excess of the tax reported on the return. The refund claim shall be filed in the manner provided in section 5739.07 of the Revised Code, except that the claim may be filed within four

years of the due date of the return on which the bad debt first could have been claimed.

(E) When the filing responsibilities of a vendor have been assumed by a certified service provider, the certified service provider shall claim the bad debt allowance provided by this section on behalf of the vendor. The certified service provider shall credit or refund to the vendor the full amount of any bad debt allowance or refund.

(F) No person other than the vendor in the transaction that generated the bad debt or, as provided in division (E) of this section, a certified service provider, may claim the bad debt allowance provided by this section.

Sec. 5739.122. (A) If the total amount of tax required to be paid by a vendor under section 5739.12 of the Revised Code for any calendar year indicated in the following schedule equals or exceeds the amounts prescribed for that year in the schedule seventy-five thousand dollars, the vendor shall remit each monthly tax payment in the second ensuing and each succeeding tax year by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

~~Year~~	1992	1993 through 1999	2000 and thereafter
~~Tax~~	\$1,200,000	\$600,000	\$60,000
~~payment~~			

If a vendor's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the vendor is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each vendor required to remit taxes by electronic funds transfer of the vendor's obligation to do so, shall maintain an updated list of those vendors, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a vendor subject to this section to remit taxes by electronic funds transfer does not relieve the vendor of its obligation to remit taxes by electronic funds transfer.

(B) Vendors required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1) On or before the ~~eleventh~~ fifteenth day of each month, a vendor shall

remit an amount equal to the taxes collected during the first ~~seven~~ eleven days of the month. ~~On or before the eighteenth day of each month, a vendor shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month.~~ On or before the twenty-fifth day of each month, a vendor shall remit an amount equal to the taxes collected on the ~~fifteenth~~ twelfth through the twenty-first day of the month.

(2) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1) of this section, a vendor may, on or before each of the ~~eleventh, eighteenth, fifteenth~~ and twenty-fifth days of each month, remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the vendor's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a vendor shall report the taxes collected for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1) or (2) of this section.

The payment of taxes by electronic funds transfer does not affect a vendor's obligation to file the monthly return as required under section 5739.12 of the Revised Code.

(C) A vendor required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the vendor from remittance by electronic funds transfer for good cause shown for the period of time requested by the vendor or for a portion of that period. The treasurer of state shall notify the tax commissioner and the vendor of the treasurer of state's decision as soon as is practicable.

(D)(1) If a vendor that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a vendor required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under division (D)(1) or (2) of this

section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5739.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a vendor that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be imposed upon the remittance of any subsequent tax payment that the vendor remits by some means other than electronic funds transfer.

Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section.

(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days.

(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession.

(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license.

Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of a statement prescribed by the commissioner.

At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of twenty-five dollars for each fixed place of business in the county that will be the situs of retail sales. Upon

receipt of the application and exhibition of the county treasurer's receipt, showing the payment of the license fee, the county auditor shall issue to the applicant a license for each fixed place of business designated in the application, authorizing the applicant to engage in business at that location. If a vendor's identity changes, the vendor shall apply for a new license. If a vendor wishes to move an existing fixed place of business to a new location within the same county, the vendor shall obtain a new vendor's license or submit a request to the tax commissioner to transfer the existing vendor's license to the new location. When the new location has been verified as being within the same county, the commissioner shall authorize the transfer and notify the county auditor of the change of location. If a vendor wishes to move an existing fixed place of business to another county, the vendor's license shall not transfer and the vendor shall obtain a new vendor's license from the county in which the business is to be located. The form of the license shall be prescribed by the commissioner. The fees collected shall be credited to the general fund of the county.

A vendor that makes retail sales subject to tax under Chapter 5739. of the Revised Code pursuant to a permit issued by the division of liquor control shall obtain a vendor's license in the identical name and for the identical address as shown on the permit.

Except as otherwise provided in this section, if a vendor has no fixed place of business and sells from a vehicle, each vehicle intended to be used within a county constitutes a place of business for the purpose of this section.

(B) As used in this division, "transient vendor" means any person who makes sales of tangible personal property from vending machines located on land owned by others, who leases titled motor vehicles, titled watercraft, or titled outboard motors, who effectuates leases that are taxed according to division ~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or who, in the usual course of the person's business, transports inventory, stock of goods, or similar tangible personal property to a temporary place of business or temporary exhibition, show, fair, flea market, or similar event in a county in which the person has no fixed place of business, for the purpose of making retail sales of such property. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or motor vehicle that is temporarily occupied for the purpose of making retail sales of goods to the public. A place of business is not temporary if the same person conducted business at the place continuously for more than six months or occupied the premises as the person's

permanent residence for more than six months, or if the person intends it to be a fixed place of business.

Any transient vendor, in lieu of obtaining a vendor's license under division (A) of this section for counties in which the transient vendor has no fixed place of business, may apply to the tax commissioner, on a form prescribed by the commissioner, for a transient vendor's license. The transient vendor's license authorizes the transient vendor to make retail sales in any county in which the transient vendor does not maintain a fixed place of business. Any holder of a transient vendor's license shall not be required to obtain a separate vendor's license from the county auditor in that county. Upon the commissioner's determination that an applicant is a transient vendor, the applicant shall pay a license fee in the amount of twenty-five dollars, at which time the tax commissioner shall issue the license. The tax commissioner may require a vendor to be licensed as a transient vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax.

Any holder of a valid transient vendor's license may make retail sales at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event, held anywhere in the state without complying with any provision of section 311.37 of the Revised Code. Any holder of a valid vendor's license may make retail sales as a transient vendor at a temporary place of business or temporary exhibition, show, fair, flea market, or similar event held in any county in which the vendor maintains a fixed place of business for which the vendor holds a vendor's license without obtaining a transient vendor's license.

(C) As used in this division, "service vendor" means any person who, in the usual course of the person's business, sells services described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 5739.01 of the Revised Code.

Every service vendor shall make application to the tax commissioner for a service vendor's license. Each applicant shall pay a license fee in the amount of twenty-five dollars. Upon the commissioner's determination that an applicant is a service vendor and payment of the fee, the commissioner shall issue the applicant a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h), (i), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 5739.01 of the Revised Code may be made under authority of a service vendor's license, and that license authorizes sales to be made at any place in this state. Any service vendor who makes sales of other services or tangible personal property subject to the sales tax also shall be licensed under division (A), (B), or (D) of this section.

(D) As used in this division, "delivery vendor" means any vendor who engages in one or more of the activities described in divisions (D)(1) to (4) of this section, and who maintains no store, showroom, or similar fixed place of business or other location where merchandise regularly is offered for sale or displayed or shown in catalogs for selection or pick-up by consumers, or where consumers bring goods for repair or other service.

(1) The vendor makes retail sales of tangible personal property;

(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors;

(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.

A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

Sec. 5739.21. (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in section 5739.102 of

the Revised Code or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B)(1) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes received during that month from billings and assessments ~~received during that month, or shown on~~ associated with tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes. The amount to be returned to each county and transit authority shall be a fraction of the aggregate amount of money collected with respect to each area in which one or more of such taxes are concurrently in effect with the tax levied by section 5739.02 of the Revised Code, the The numerator of which the fraction is the rate of the tax levied by the county or transit authority and the denominator of which the fraction is the aggregate rate of such taxes applicable to such area; provided, that the The amount to be returned to each county or transit authority shall be reduced by the amount of any refunds of county or transit authority tax paid pursuant to section 5739.07 of the Revised Code during the same month, or transfers made pursuant to division (B)(2) of section 5703.052 of the Revised Code.

(2) On a periodic basis, using the best information available, the tax commissioner shall distribute any amount of a county or transit authority tax that cannot be distributed under division (B)(1) of this section. Through audit or other means, the commissioner shall attempt to obtain the information necessary to make the distribution as provided under that division and, on receipt of that information, shall make adjustments to distributions previously made under this division.

(C) The aggregate amount to be returned to any county or transit authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the

rates authorized under that section. ~~The~~

(D) ~~The~~ director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority.

Sec. 5739.33. If any corporation, limited liability company, or business trust required to file returns and to remit tax due to the state under this chapter, including a holder of a direct payment permit under section 5739.031 of the Revised Code, fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in section 5739.13 of the Revised Code.

Sec. 5741.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of

possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any salesman, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible personal property or has been provided a service for storage, use, or other consumption or benefit in this state. "Consumer" does not include a person who receives, without charge, tangible personal property or a service.

A person who performs a facility management or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(4) of section 5739.01 of the Revised Code.

(G)(1) "Price," except as provided in the case of watercraft, outboard motors, or new motor vehicles, means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, by a consumer to a seller in the complete performance of the transaction by which tangible personal property has been purchased or a service has been

provided for storage, use, or other consumption or benefit in this state, without any deduction or exclusion on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the transaction consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered by the lessee to the lessor, in the complete performance of the rental or lease, without any deduction or exclusion of tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. Except as provided in division (G)(6) of this section, the tax shall be calculated and collected by the lessor on each payment made by the lessee. If a consumer produces the tangible personal property used by the consumer, the price is the produced cost of such tangible personal property. "Price" does not include delivery charges that are separately stated on the initial invoice or initial billing rendered by the seller.

~~The tax collected by the seller from the consumer under this chapter is~~ not a part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code and, except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.

~~As used in division~~ divisions (G)(1)(2) to (6) of this section, "delivery charges" means charges by the seller for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing has the same meaning as in division (H)(1) of section 5739.01 of the Revised Code.

(2) In the case of watercraft, outboard motors, or new motor vehicles, "price" has the same meaning as in ~~division~~ divisions (H)(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that purchases and uses tangible personal property outside this state and subsequently temporarily stores, uses, or otherwise consumes such tangible personal property in the conduct of business in this state, the consumer or the tax commissioner may determine the price based on the value of the temporary

storage, use, or other consumption, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(4) In the case of tangible personal property held in this state as inventory for sale or lease, and that is temporarily stored, used, or otherwise consumed in a taxable manner, the price is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(6) ~~In the case of the purchase or lease of any motor vehicle designed by~~ the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or the lease of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee primarily for business purposes, the tax shall be collected by the vendor at the time the lease is consummated and calculated by the vendor on the basis of the total amount to be paid by the lessee under the lease agreement. If the total amount of the consideration for the lease includes amounts that are not calculated at the time the lease is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee. In the case of an open-end lease, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease, and then for each subsequent renewal period as it comes due. As used in division (G)(6) of this section only, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to

collect and remit use tax on sales of tangible personal property or services made to consumers in this state. "Substantial nexus with this state" exists when the seller does any of the following:

(1) Maintains a place of business within this state, whether operated by employees or agents of the seller, by a member of an affiliated group, as ~~described~~ defined in division (B)(3)(e) of section 5739.01 of the Revised Code, of which the seller is a member, or by a franchisee using a trade name of the seller;

(2) Regularly has employees, agents, representatives, solicitors, installers, repairmen, salesmen, or other individuals in this state for the purpose of conducting the business of the seller;

(3) Uses a person in this state for the purpose of receiving or processing orders of the seller's goods or services;

(4) Makes regular deliveries of tangible personal property into this state by means other than common carrier;

(5) Has membership in an affiliated group, as described in division (B)(3)(e) of section 5739.01 of the Revised Code, at least one other member of which has substantial nexus with this state;

(6) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state;

(7) Except as provided in section 5703.65 of the Revised Code, is registered with the secretary of state to do business in this state or is registered or licensed by any state agency, board, or commission to transact business in this state or to make sales to persons in this state;

(8) Has any other contact with this state that would allow this state to require the seller to collect and remit use tax under Section 8 of Article I of the Constitution of the United States.

(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed pursuant to section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created

pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in division (X) of section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "~~Lease~~" ~~means any transfer for a consideration of the possession of and right to use, but not title to, tangible personal property for a fixed period of time greater than thirty days or for an open-ended period of time with a minimum fixed period of more than thirty days or~~ "rental" has the same meaning as in division (UU) of section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected ~~pursuant to the schedules as provided~~ in section 5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of the tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated

by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a

nonresident tourist or vacationer, or a non-business use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E)(4) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner. If the transaction is claimed to be exempt under

division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(2) If no certificate is provided or obtained within the period for filing the return for the period in which the transaction is consummated, it shall be presumed that the tax applies. The failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of notice by the commissioner of intention to levy an assessment, that the transaction is not subject to the tax.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5741.021. (A) For the purpose of providing additional general

revenues for the county or supporting criminal and administrative justice services in the county, or both, and to pay the expenses of administering such levy, any county which levies a tax pursuant to section 5739.021 of the Revised Code shall levy a tax at the same rate levied pursuant to section 5739.021 of the Revised Code on the storage, use, or other consumption in the county of the following:

(1) Motor vehicles ~~acquired on or after May 1, 1970~~, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code and ~~acquired on or after April 1, 1990~~, by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners which shall be adopted after publication of notice and hearing in the same manner as provided in section 5739.021 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to section 5739.021 of the Revised Code and shall remain in effect until such sales tax is repealed.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.022 and 5741.023 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section

or section 5739.021, 5739.023, 5739.026, 5741.022, or 5741.023 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.022 and 5741.023 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.022 and 5741.023 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

(E) As used in this section, "criminal and administrative justice services" has the same meaning as in section 5739.021 of the Revised Code.

Sec. 5741.022. (A) For the purpose of providing additional general revenues for the transit authority and paying the expenses of administering such levy, any transit authority as defined in section 5741.01 of the Revised Code that levies a tax pursuant to section 5739.023 of the Revised Code shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the territory of the transit authority of the following:

(1) Motor vehicles ~~acquired on or after June 29, 1974~~, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code and ~~acquired on or after April 1, 1990~~, by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be in effect at the same time and at the same rate and shall be levied pursuant to the resolution of the legislative authority of the transit authority levying a sales tax pursuant to section 5739.023 of the Revised Code.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.021 and 5741.023 of the Revised Code.

(C) The additional tax levied by the authority shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of

property not within the taxing power of a transit authority under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 5741.023 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.021 and 5741.023 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.023 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

(E) The rate of a tax levied under this section is subject to reduction under section 5739.028 of the Revised Code if a ballot question is approved by voters pursuant to that section.

Sec. 5741.023. (A) For the same purposes for which it has imposed a tax under section 5739.026 of the Revised Code, any county ~~which~~ that levies a tax pursuant to such section shall levy a tax at the same rate levied pursuant to such section on the storage, use, or other consumption in the county of the following:

(1) Motor vehicles, and watercraft and outboard motors required to be titled in the county pursuant to Chapter 1548. of the Revised Code, acquired by a transaction subject to the tax imposed by section 5739.02 of the Revised Code;

(2) In addition to the tax imposed by section 5741.02 of the Revised Code, tangible personal property and services subject to the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners, which shall be adopted in the same manner as provided in section 5739.026 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to such section and shall remain in effect until such sales tax is repealed or expires.

(B) The tax levied pursuant to this section shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.021 and 5741.022 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 5741.022 of the Revised Code has been paid, if the sum of the taxes paid pursuant to those sections is equal to or greater than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code. If the sum of the taxes paid is less than the sum of the taxes due under this section and sections 5741.021 and 5741.022 of the Revised Code, the amount of tax paid shall be credited against the amount of tax due.

Sec. 5741.121. (A) If the total amount of tax required to be paid by a seller or consumer under section 5741.12 of the Revised Code for any year ~~indicated in the following schedule~~ equals or exceeds ~~the amount prescribed for that year in the schedule~~ seventy-five thousand dollars, the seller or consumer shall remit each monthly tax payment in the second ensuing and each succeeding year by electronic funds transfer as prescribed by division (B) of this section.

Year	1992	1993 through 1999	2000 and thereafter
Tax payment	\$1,200,000	\$600,000	\$60,000

If a seller's or consumer's tax payment for each of two consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand dollars, the seller or consumer is relieved of the requirement to remit taxes by electronic funds transfer for the year that next follows the second of the consecutive years in which the tax payment is less than ~~sixty thousand dollars~~ that amount, and is relieved of that requirement for each succeeding year, unless the tax payment in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand dollars.

The tax commissioner shall notify each seller or consumer required to remit taxes by electronic funds transfer of the seller's or consumer's obligation to do so, shall maintain an updated list of those sellers and consumers, and shall timely certify the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a seller or consumer subject to this section to remit taxes by electronic funds transfer does not relieve the seller or consumer of the obligation to remit taxes by electronic funds transfer.

(B) Sellers and consumers required by division (A) of this section to remit payments by electronic funds transfer shall remit such payments to the

treasurer of state in the manner prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the following dates:

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, a seller shall remit an amount equal to the taxes collected during the first ~~seven~~ eleven days of the month. ~~On or before the eighteenth day of each month, a seller shall remit an amount equal to the taxes collected on the eighth through the fourteenth day of the month.~~ On or before the twenty-fifth day of each month, a seller shall remit an amount equal to the taxes collected on the ~~fifteenth~~ twelfth through the twenty-first day of the month.

(b) In lieu of remitting the actual amounts collected for the periods specified in division (B)(1)(a) of this section, a seller may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the seller's total tax liability for the same month in the preceding calendar year.

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth and twenty-fifth days of each month, a consumer shall remit an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of the consumer's total tax liability for the same month in the preceding calendar year.

(3) On or before the twenty-third day of each month, a seller shall report the taxes collected and a consumer shall report the taxes due for the previous month and shall remit that amount, less any amounts paid for that month as required by division (B)(1)(a) or (b) or (B)(2) of this section.

The payment of taxes by electronic funds transfer does not affect a seller's or consumer's obligation to file the monthly return as required under section 5741.12 of the Revised Code.

(C) A seller or consumer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the seller or consumer from remittance by electronic funds transfer for good cause shown for the period of time requested by the seller or consumer or for a portion of that period. The treasurer of state shall notify the tax commissioner and the seller or consumer of the treasurer of state's decision as soon as is practicable.

(D)(1) If a seller or consumer that is required to remit payments under division (B) of this section fails to make a payment, the commissioner may impose an additional charge not to exceed five per cent of that unpaid amount.

(2) If a seller or consumer required by this section to remit taxes by

electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may impose an additional charge not to exceed the lesser of five per cent of the amount of the taxes required to be paid by electronic funds transfer or five thousand dollars.

(3) Any additional charge imposed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from taxes imposed under this chapter. An additional charge may be collected by assessment in the manner prescribed by section 5741.13 of the Revised Code. The tax commissioner may waive all or a portion of such a charge and may adopt rules governing such waiver.

No additional charge shall be imposed under division (D)(2) of this section against a seller or consumer that has been notified of the obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer.

The additional charge may be imposed upon the remittance of any subsequent tax payment that the seller or consumer remits by some means other than electronic funds transfer.

Sec. 5741.25. If any corporation, limited liability company, or business trust registered or required to be registered under section 5741.17 of the Revised Code and required to file returns and remit tax due to the state under this chapter fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in section 5741.11 or 5741.13 of the Revised Code.

Sec. 5743.05. All stamps provided for by section 5743.03 of the Revised Code, when procured by the tax commissioner, shall be immediately delivered to the treasurer of state, who shall execute a receipt therefor

showing the number and aggregate face value of each denomination received by the treasurer of state and any other information that the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 or 5743.026 of the Revised Code, and deliver the receipt to the commissioner. The treasurer of state shall sell the stamps and, on the fifth day of each month, make a report showing all sales made during the preceding month, with the names of purchasers, the number of each denomination, the aggregate face value purchased by each, and any other information as the commissioner requires to enforce the collection and distribution of all taxes imposed under section 5743.024 of the Revised Code, and deliver it to the commissioner. The treasurer of state shall be accountable for all stamps received and unsold. The stamps shall be sold and accounted for at their face value, except the commissioner shall, by rule certified to the treasurer of state, authorize the sale of stamps and meter impressions to wholesale or retail dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps or meter impressions.

The commissioner, by rule certified to the treasurer of state, shall authorize the delivery of stamps and meter impressions to wholesale and retail dealers in this state and to wholesale dealers outside this state on credit ~~when the purchaser files~~. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, and with surety to the satisfaction of the treasurer of state commissioner, conditioned on payment to the treasurer of state within thirty days for stamps or meter impressions delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the tax commissioner shall not require that the dealer file such a bond but shall require payment for the stamps and meter impressions within thirty days after purchase of the stamps and meter impressions. Stamps and meter impressions sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the tax commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period of July

through April. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the thirty-day period, the treasurer of state shall not thereafter sell stamps or meter impressions to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good standing. The commissioner shall limit delivery of stamps and meter impressions on credit to the period running from the first day of July of the fiscal year until the first day of the following May. Any discount allowed as a commission for affixing and canceling stamps or meter impressions shall be allowed with respect to sales of stamps and meter impressions on credit.

The treasurer of state shall redeem and pay for any destroyed, unused, or spoiled tax stamps and any unused meter impressions at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the tax commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is less than that claimed, the ~~commissioner~~ commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.

Sec. 5743.051. This section applies to any wholesale or retail cigarette dealer required by section 5743.05 of the Revised Code to remit payment for

tax stamps and meter impressions by electronic funds transfer. The tax commissioner shall notify each dealer of the dealer's obligation to do so and shall maintain an updated list of those dealers. Failure by the tax commissioner to notify a dealer subject to this section to remit taxes by electronic funds transfer does not relieve the dealer of its obligation to remit taxes by electronic funds transfer.

A dealer required to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code and within the time prescribed for such a dealer by section 5743.05 of the Revised Code.

A dealer required to remit taxes by electronic funds transfer may apply to the tax commissioner in the manner prescribed by the tax commissioner to be excused from that requirement. The tax commissioner may excuse the dealer from remittance by electronic funds transfer for good cause shown for the period of time requested by the dealer or for a portion of that period.

If a dealer required to remit taxes by electronic funds transfer remits those taxes by some other means, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer. If the tax commissioner determines that such failure was not due to reasonable cause or was due to willful neglect, the tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5743.081 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter and shall be considered as revenue arising from taxes imposed under this chapter. The tax commissioner may abate all or a portion of such a charge and may adopt rules governing such remissions.

No additional charge shall be assessed under this section against a dealer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the dealer remits by some means other than electronic funds transfer.

Sec. 5743.21. (A) No person shall affix a stamp required by section 5743.03 of the Revised Code to any package that:

(1) Bears any label or notice prescribed by the United States to identify cigarettes exempt from taxation by the United States pursuant to section 5704(b) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26

U.S.C.A. 5704(b), including any notice or label described in 27 C.F.R. 290.185;

(2) Is not labeled in conformity with the "Federal Cigarette Labeling and Advertising Act," 79 Stat. 282, 15 U.S.C.A. 1331 (1965), or any other federal requirement for the placement of labels, warnings, or other information applicable to packages of cigarettes intended for domestic consumption;

(3) Has been altered by anyone other than the manufacturer or a person authorized by the manufacturer, including by the placement of a sticker to cover information on or add information to the package;

(4) Has been imported or brought into the United States after January 1, 2000, in violation of section 5754 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or regulations adopted under that section;

(5) Is produced by a tobacco product manufacturer or is part of a brand family that is not included in the directory established under section 1346.05 of the Revised Code.

(B) No person shall sell or offer to sell any roll-your-own tobacco to any person in this state if the roll-your-own tobacco is not included in the directory established under section 1346.05 of the Revised Code. Any roll-your-own tobacco in the possession of a retail dealer in this state shall be prima facie evidence of offering to sell to a person in this state.

(C) Whenever the tax commissioner discovers any packages to which stamps have been affixed in violation of this section, or any roll-your-own tobacco sold or offered for sale in violation of this section, the tax commissioner may seize the packages or roll-your-own tobacco, which shall thereupon be forfeited to the state, and shall order their the destruction of the packages or roll-your-own tobacco, provided that the seizure and destruction shall not exempt any person from prosecution or from the fine or imprisonment provided for the violation of this section.

(D) As used in this section, "roll-your-own" has the same meaning as in section 1346.01 of the Revised Code, and "tobacco product manufacturer" and "brand family" have the same meanings as in section 1346.04 of the Revised Code.

Sec. 5743.45. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapters 5728., 5735., 5739., 5741., and 5747. of the Revised Code and subject to division (C) of this section, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training

commission and who is engaged in the enforcement of those chapters. A separate journal entry shall be entered for each employee to whom that power is delegated. Each journal entry shall be a matter of public record and shall be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke ~~that~~ the commissioner's delegation by journal entry. No employee of the department shall divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, except as may be required by the commissioner or a court.

(C)(1) The tax commissioner shall not delegate any investigation powers to an employee of the department of taxation pursuant to division (B) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The tax commissioner shall revoke the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.29 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The tax commissioner shall suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner shall revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner shall reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee

under division (C)(2) of this section shall be made by journal entry pursuant to division (B) of this section. An employee to whom the delegation of investigation powers is reinstated under division (C)(2)(b) of this section shall not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5745.01. As used in this chapter:

(A) "Electric company," ~~and~~ "combined company," and "telephone company," have the same meanings as in section 5727.01 of the Revised Code, except "telephone company" does not include a non profit corporation.

(B) "Electric light company" has the same meaning as in section 4928.01 of the Revised Code, and includes the activities of a combined company as an electric company, but excludes nonprofit companies and municipal corporations.

(C) "Taxpayer" means ~~an~~ either of the following:

(1) An electric light company subject to taxation by a municipal corporation in this state for a taxable year, excluding an electric light company that is not an electric company or a combined company and for which an election made under section 5745.031 of the Revised Code is not in effect with respect to the taxable year. If such a company is a qualified subchapter S subsidiary as defined in section 1361 of the Internal Revenue Code or a disregarded entity, the company's parent S corporation or owner is the taxpayer for the purposes of this chapter and is hereby deemed to have nexus with this state under the Constitution of the United States for the purposes of this chapter.

(2) A telephone company subject to taxation by a municipal corporation in this state for a taxable year. A telephone company is subject to taxation under this chapter for any taxable year that begins on or after January 1, 2004. A telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, or shall compute its net operating loss carried forward for that taxable year, by multiplying the tax owed, or the loss for the taxable year, by fifty per cent.

(D) "Disregarded entity" means an entity that, for its taxable year, is by

default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 C.F.R. 301.7701-3.

(E) "Taxable year" of a taxpayer is the taxpayer's taxable year for federal income tax purposes.

(F) "Federal taxable income" means taxable income, before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code.

(G) "Adjusted federal taxable income" means federal taxable income adjusted as follows:

(1) Deduct intangible income as defined in section 718.01 of the Revised Code to the extent included in federal taxable income;

(2) Add expenses incurred in the production of such intangible income;

(3) If, with respect to a qualifying taxpayer and a qualifying asset there occurs a qualifying taxable event, the qualifying taxpayer shall reduce its federal taxable income, as defined in division (F) of this section, by the amount of the book-tax ~~differential~~ difference for that qualifying asset if the book-tax ~~differential~~ difference is greater than zero, and shall increase its federal taxable income by the absolute value of the amount of the book-tax ~~differential~~ difference for that qualifying asset if the book-tax ~~differential~~ difference is less than zero. The adjustments provided in division (G)(3) of this section are subject to divisions (B)(3), (4), and (5) of section 5733.0510 of the Revised Code to the extent those divisions apply to the adjustments in that section for the taxable year. A taxpayer shall not deduct or add any amount under division (G)(3) of this section with respect to a qualifying asset the sale, exchange, or other disposition of which resulted in the recognition of a gain or loss that the taxpayer deducted or added, respectively, under division (G)(1) or (2) of this section.

For the purposes of division (G)(3) of this section, ~~"net income" has the same meaning as in section 5733.04 of the Revised Code, and "book-tax differential difference," "qualifying taxpayer," "qualifying asset," and "qualifying taxable event" have the same meanings as in section 5733.0510 of the Revised Code.~~

(4) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute "adjusted federal taxable income" as if the taxpayer were a C corporation, except:

(a) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, or member or former member shall not be allowed as a deductible expense; and

(b) With respect to each owner or owner-employee of the taxpayer, amounts paid or accrued to a qualified self-employed retirement plan and

amounts paid or accrued to or for health insurance or life insurance shall not be allowed as a deduction.

Nothing in this division shall be construed as allowing the taxpayer to deduct any amount more than once.

(5) Add or deduct the amounts described in section 5733.0511 of the Revised Code for qualifying telephone company taxpayers.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on December 31, 2001.

(I) "Ohio net income" means the amount determined under division (B) of section 5745.02 of the Revised Code.

Sec. 5745.02. (A) The annual report filed under section 5745.03 of the Revised Code determines a taxpayer's Ohio net income and the portion of Ohio net income to be apportioned to a municipal corporation.

(B) A taxpayer's Ohio net income is determined by multiplying the taxpayer's adjusted federal taxable income by the sum of the property factor multiplied by one-third, the payroll factor multiplied by one-third, and the sales factor multiplied by one-third. If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. The property, payroll, and sales factors shall be determined in the manner prescribed by divisions (B)(1), (2), and (3) of this section.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented, and used in business in this state during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented, and used in business everywhere during such year. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the taxpayer's property.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid

everywhere by the taxpayer during such year. Compensation means any form of remuneration paid to an employee for personal services. Compensation is paid in this state if: (a) the recipient's service is performed entirely within this state, (b) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, or (c) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(3) The sales factor is a fraction, the numerator of which is the total sales in this state by the taxpayer during the taxable year, and the denominator of which is the total sales by the taxpayer everywhere during such year. Sales of electricity shall be situated to this state in the manner provided under section 5733.059 of the Revised Code. In determining the numerator and denominator of the sales factor, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting taxpayer owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company, a combined company, or a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the reporting taxpayer from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of division (B)(3) of this section, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales, other than sales of electricity or tangible personal property, are in

this state if either the income-producing activity is performed solely in this state, or the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

For the purposes of division (B)(3) of this section, the tax commissioner may adopt rules to apportion sales within this state.

(C) The portion of a taxpayer's Ohio net income taxable by each municipal corporation imposing an income tax shall be determined by multiplying the taxpayer's Ohio net income by the sum of the municipal property factor multiplied by one-third, the municipal payroll factor multiplied by one-third, and the municipal sales factor multiplied by one-third, and subtracting from the product so obtained any "municipal net operating loss carryforward from prior taxable years." If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. In calculating the "municipal net operating loss carryforward from prior taxable years" for each municipal corporation, net operating losses are apportioned in and out of a municipal corporation for the taxable year in which the net operating loss occurs in the same manner that positive net income would have been so apportioned. Any net operating loss for a municipal corporation may be applied to subsequent net income in that municipal corporation to reduce that income to zero or until the net operating loss has been fully used as a deduction. The unused portion of net operating losses for each taxable year apportioned to a municipal corporation may only be applied against the income apportioned to that municipal corporation for five subsequent taxable years. Net operating losses occurring in taxable years ending before 2002 may not be subtracted under this section.

A taxpayer's municipal property, municipal payroll, and municipal sales factors for a municipal corporation shall be determined as provided in divisions (C)(1), (2), and (3) of this section.

(1) The municipal property factor is the quotient obtained by dividing (a) the average value of real and tangible personal property owned or rented by the taxpayer and used in business in the municipal corporation during the taxable year by (b) the average value of all of the taxpayer's real and tangible personal property owned or rented and used in business during that taxable year in this state. The value and average value of such property shall be determined in the same manner provided in division (B)(1) of this section.

(2) The municipal payroll factor is the quotient obtained by dividing (a) the total amount of compensation earned in the municipal corporation by the taxpayer's employees during the taxable year for services performed for the taxpayer and that is subject to income tax withholding by the municipal corporation by (b) the total amount of compensation paid by the taxpayer to its employees in this state during the taxable year. Compensation has the same meaning as in division (B)(2) of this section.

(3) The municipal sales factor is a fraction, the numerator of which is the taxpayer's total sales in a municipal corporation during the taxable year, and the denominator of which is the taxpayer's total sales in this state during such year.

For the purpose of division (C)(3) of this section, sales of tangible personal property are in the municipal corporation where such property is received in the municipal corporation by the purchaser. Sales of electricity directly to the consumer, as defined in section 5733.059 of the Revised Code, shall be considered sales of tangible personal property. In the case of the delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property ultimately is received after all transportation has been completed shall be considered as the place at which the property is received by the purchaser. Direct delivery in the municipal corporation, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in that municipal corporation, and direct delivery outside the municipal corporation to a person or firm designated by a purchaser does not constitute delivery to the purchaser in that municipal corporation, regardless of where title passes or other conditions of sale. Sales, other than sales of tangible personal property, are in the municipal corporation if either:

(a) The income-producing activity is performed solely in the municipal corporation;

(b) The income-producing activity is performed both within and without the municipal corporation and a greater proportion of the income-producing activity is performed within that municipal corporation than any other location in this state, based on costs of performance.

For the purposes of division (C)(3) of this section, the tax commissioner may adopt rules to apportion sales within each municipal corporation.

(D) If a taxpayer is a combined company as defined in section 5727.01 of the Revised Code, the municipal property, payroll, and sales factors under division (C) of this section shall be adjusted as follows:

(1) The numerator of the municipal property factor shall include only

the value, as determined under division (C)(1) of this section, of the company's real and tangible property in the municipal corporation attributed to the company's activity as an electric company using the same methodology prescribed under section 5727.03 of the Revised Code for taxable tangible personal property.

(2) The numerator of the municipal payroll factor shall include only compensation paid in the municipal corporation by the company to its employees for personal services rendered in the company's activity as an electric company.

(3) The numerator of the municipal sales factor shall include only the sales of tangible personal property and services, as determined under division (C)(3) of this section, made in the municipal corporation in the course of the company's activity as an electric company.

(E)(1) If the provisions for apportioning adjusted federal taxable income or Ohio net income under ~~division~~ divisions (B), (C), and (D) of this section do not fairly represent business activity in this state or among municipal corporations, the tax commissioner may adopt rules for apportioning such income by an alternative method that fairly represents business activity in this state or among municipal corporations.

(2) If any of the factors determined under division (B), (C), or (D) of this section does not fairly represent the extent of a taxpayer's business activity in this state or among municipal corporations, the taxpayer may request, or the tax commissioner may require, that the taxpayer's adjusted federal taxable income or Ohio net income be determined by an alternative method, including any of the alternative methods enumerated in division (B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer requesting an alternative method shall make the request in writing to the tax commissioner either with the annual report, a timely filed amended report, or a timely filed petition for reassessment. When the tax commissioner requires or permits an alternative method under division (E)(2) of this section, the tax commissioner shall cause a written notice to that effect to be delivered to any municipal corporation that would be affected by application of the alternative method. Nothing in this division shall be construed to extend any statute of limitations under this chapter.

(F)(1) The tax commissioner may adopt rules providing for the combination of adjusted federal taxable incomes of taxpayers satisfying the ownership or control requirements of section 5733.052 of the Revised Code if the tax commissioner finds that such combinations are necessary to properly reflect adjusted federal taxable income, Ohio net income, or the portion of Ohio net income to be taxable by municipal corporations.

(2) A taxpayer satisfying the ownership or control requirements of section 5733.052 of the Revised Code with respect to one or more other taxpayers may not combine their adjusted federal taxable incomes for the purposes of this section unless rules are adopted under division (F)(1) of this section allowing such a combination or the tax commissioner finds that such a combination is necessary to properly reflect the taxpayers' adjusted federal taxable incomes, Ohio net incomes, or the portion of Ohio net incomes to be subject to taxation within a municipal corporation.

(G) The tax commissioner may adopt rules providing for alternative apportionment methods for a telephone company.

Sec. 5745.04. (A) As used in this section, "combined tax liability" means the total of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.

(B) Beginning with its taxable year beginning in 2003, each taxpayer shall file a declaration of estimated tax report with, and remit estimated taxes to, the tax commissioner, payable to the treasurer of state, at the times and in the amounts prescribed in divisions (B)(1) to (4) of this section. This division also applies to a taxpayer having a taxable year consisting of fewer than twelve months, at least one of which is in 2002, that ends before January 1, 2003. The first taxable year a taxpayer is subject to this chapter, the estimated taxes the taxpayer is required to remit under this section shall be based solely on the current taxable year and not on the liability for the preceding taxable year.

(1) Not less than twenty-five per cent of the combined tax liability for the preceding taxable year or twenty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the fourth month after the end of the preceding taxable year.

(2) Not less than fifty per cent of the combined tax liability for the preceding taxable year or forty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the sixth month after the end of the preceding taxable year.

(3) Not less than seventy-five per cent of the combined tax liability for the preceding taxable year or sixty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the ninth month after the end of the preceding taxable year.

(4) Not less than one hundred per cent of the combined tax liability for the preceding taxable year or eighty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the twelfth month after the end of the preceding taxable year.

(C) Each taxpayer shall report on the declaration of estimated tax report the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(D) Upon receiving a declaration of estimated tax report and remittance of estimated taxes under this section, the tax commissioner shall immediately forward to the treasurer of state such remittance. The treasurer of state shall credit ninety-eight and one-half per cent of the remittance to the municipal income tax fund and credit the remainder to the municipal income tax administrative fund.

(E) If any remittance of estimated taxes is for one thousand dollars or more, the taxpayer shall make the remittance by electronic funds transfer as prescribed by section 5745.04 of the Revised Code.

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised Code, no penalty or interest shall be imposed on a taxpayer if the declaration of estimated tax report is properly filed, and the estimated tax is paid, within the time prescribed by division (B) of this section.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1

railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 or after 2004, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for

medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one

hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest. ~~The~~

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the ~~add-back~~ add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by

the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an

employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year.

(b) A trust is irrevocable to the extent that the transferor is not

considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and

(2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least

one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed

pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that

in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small

business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002, 2003, or 2004.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years

of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under division (B)(2) of section 5733.05,

and applying section 5733.057 of the Revised Code, as if the trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code, multiplied by the sum of the following amounts:

- (i) The trust's modified business income;
- (ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

- (i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year

ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division

(BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by Ohio adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code; measured in the case of trusts by modified Ohio taxable income under division (D) of this section; and measured in the case of estates by Ohio taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

OHIO ADJUSTED GROSS
INCOME LESS EXEMPTIONS
(INDIVIDUALS)

OR
MODIFIED OHIO
TAXABLE INCOME (TRUSTS)

OR OHIO TAXABLE INCOME (ESTATES)	TAX
\$5,000 or less	.743%
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000
More than \$15,000 but not more than \$20,000	\$260.05 plus 3.715% of the amount in excess of \$15,000
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000

In July of each year, beginning in 2005, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to

the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

(D) This division applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

(1) The tax imposed by this section on a trust shall be computed by multiplying the Ohio modified taxable income of the trust by the rates prescribed by division (A) of this section.

(2) A credit is allowed against the tax computed under division (D) of this section equal to the lesser of (1) the tax paid to another state or the District of Columbia on the trust's modified nonbusiness income, other than the portion of the trust's nonbusiness income that is qualifying investment income as defined in section 5747.012 of the Revised Code, or (2) the effective tax rate, based on modified Ohio taxable income, multiplied by the trust's modified nonbusiness income other than the portion of trust's nonbusiness income that is qualifying investment income. The credit applies before any other applicable credits.

(3) The credits enumerated in divisions (A)(1) to (13) of section 5747.98 of the Revised Code do not apply to a trust subject to this division. Any credits enumerated in other divisions of section 5747.98 of the Revised Code apply to a trust subject to this division. To the extent that the trust distributes income for the taxable year for which a credit is available to the trust, the credit shall be shared by the trust and its beneficiaries. The tax commissioner and the trust shall be guided by applicable regulations of the United States treasury regarding the sharing of credits.

(E) For the purposes of this section, "trust" means any trust described in Subchapter J of Chapter 1 of the Internal Revenue Code, excluding trusts that are not irrevocable as defined in division (I)(3)(b) of section 5747.01 of the Revised Code and that have no modified Ohio taxable income for the taxable year, charitable remainder trusts, qualified funeral trusts and preneed funeral contract trusts established pursuant to section 1111.19 of the Revised Code that are not qualified funeral trusts, endowment and perpetual care trusts, qualified settlement trusts and funds, designated settlement trusts and funds, and trusts exempted from taxation under section 501(a) of the

Internal Revenue Code.

Sec. 5747.026. (A) For taxable years beginning on or after January 1, 2002, a member of the national guard or a member of a reserve component of the armed forces of the United States called to active or other duty under operation Iraqi freedom may apply to the tax commissioner for an extension for filing of the return and payment of taxes required under this chapter during the period of the member's duty service and for sixty days thereafter. The application shall be filed on or before the sixtieth day after the member's duty terminates. An applicant shall provide such evidence as the commissioner considers necessary to demonstrate eligibility for the extension.

(B)(1) If the commissioner determines that an applicant is qualified for an extension under this section, the commissioner shall enter into a contract with the applicant for the payment of the tax in installments that begin on the sixty-first day after the applicant's duty under operation Iraqi freedom terminates. Except as provided in division (B)(3) of this section, the commissioner may prescribe such contract terms as the commissioner considers appropriate.

(2) If the commissioner determines that an applicant is qualified for an extension under this section, the applicant shall not be required to file any return, report, or other tax document before the sixty-first day after the applicant's duty under operation Iraqi freedom terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The tax commissioner shall not require any payments of penalties or interest in connection with such taxes.

(C)(1) Divisions (A) and (B) of this section do not apply to any taxable year for which a taxpayer receives an extension of time in which to file a federal income tax return or pay federal income tax under the Internal Revenue Code.

(2)(a) A taxpayer who is eligible for an extension under the Internal Revenue Code shall receive an extension of time in which to file any return, report, or other tax document described in this chapter and an extension of time in which to make any payment of taxes required under this chapter or Chapter 5748. of the Revised Code. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code.

(b) Taxes paid in accordance with division (C)(2)(a) of this section are not delinquent. The tax commissioner shall not require any payment of penalties or interest in connection with such taxes. The tax commissioner

shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the interest due on any unpaid tax.

(D) The tax commissioner shall adopt rules necessary to administer this section, including rules establishing the following:

(1) Forms and procedures by which applicants may apply for extensions;

(2) Criteria for eligibility;

(3) A schedule for repayment of deferred taxes.

Sec. 5747.12. If a person entitled to a refund under section 5747.11 or 5747.13 of the Revised Code is indebted to this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, or fee administered by the tax commissioner that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium, unemployment compensation contribution, or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax imposed under this chapter or Chapter 5748. of the Revised Code and due for any taxable year, of the amount of any refund due the taxpayer under this chapter or Chapter 5748. of the Revised Code, as appropriate, for a preceding taxable year.

Sec. 5747.31. (A) This section applies to an individual or estate that is a proprietor or a pass-through entity investor.

(B) A taxpayer described in division (A) of this section is allowed a credit that shall be computed and claimed in the same manner as the credit allowed to corporations in section 5733.33 of the Revised Code. The taxpayer shall claim one-seventh of the credit amount for the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing taxable years. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

The taxpayer shall file with the department of development a notice of

intent to claim the credit in accordance with division (E) of section 5733.33 of the Revised Code.

(C)(1) A taxpayer described in division (A) of this section is allowed a credit that shall be computed in the same manner as the credit allowed to a corporation in section 5733.39 of the Revised Code, with the following adjustments:

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code;

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code;

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code;

(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code.

(2) Notwithstanding section ~~5747.131~~ 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section ~~5747.131~~ 5703.56 of the Revised Code do not apply with respect to the credit provided by this division.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

Sec. 5747.80. Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5747.02 of the Revised Code. The credit shall be claimed for the taxable year specified in the certificate issued by the authority and in the order required under section 5747.98 of the Revised Code. If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under section 5747.02 of the Revised Code after all credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy-five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due after all the taxpayer's credits are deducted in that order. If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any taxable year is greater than the tax otherwise due under section 5747.02 of

the Revised Code, after allowing for any other credits that precede the credit allowed under this section, the excess shall be allowed as a credit in each of the ensuing ten taxable years, but the amount of any excess credit allowed in the ensuing taxable year shall be deducted from the balance carried forward to the next taxable year.

Sec. 5901.021. (A) This section applies only to counties having a population, according to the most recent decennial census, of more than ~~four~~ five hundred thousand. ~~In~~

(B)(1) In any ~~such~~ county that is described in division (A) of this section and in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds (1) twenty-five-thousandths of one per cent of the assessed value of property in the county or (2) the amount appropriated to the commission from the county general fund in the current fiscal year by more than ten per cent of that appropriation, the board of county commissioners, by resolution, may create not more than six memberships on the veterans service commission in addition to the memberships provided for by section 5901.02 of the Revised Code. The board shall prescribe the number of years ~~such~~ the additional memberships shall exist, which shall not exceed five years. Once a board of county commissioners creates ~~such~~ any additional memberships, it may not create further additional memberships under this section if the total number of such memberships would exceed six. The board shall appoint persons who are residents of the county and who are honorably discharged or honorably separated veterans to each of the additional memberships, for terms prescribed by the board and commencing on a date fixed by the board. Each person appointed to an additional membership shall file, within sixty days after the date of the appointment, the person's form DD214 with the governor's office of veterans affairs in accordance with guidelines established by the director of that office.

(2) If the board of county commissioners appoints ~~such~~ additional members as described in division (B)(1) of this section, the board may permit the commission to submit an original or revised budget request for the ensuing fiscal year later than the last Monday in May, as otherwise required under section 5901.11 of the Revised Code.

(C) The board of county commissioners may remove, for cause, any member appointed under this section; The board shall ~~provide for~~ determine whether ~~such~~ the additional members may be reappointed upon the expiration of their terms; and shall fill any vacancy in a an additional membership ~~appointed under this section~~ for the unexpired term in the manner provided for the original appointment.

Sec. 6101.09. Within thirty days after the conservancy district has been declared a corporation by the court, the clerk of such court shall transmit to the secretary of state, to the director of the department of natural resources, and to the county recorder in each of the counties having lands in the district, copies of the findings and the decree of the court incorporating the district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations. Copies shall also be filed and become permanent records in the office of the recorder of each county in which a part of the district lies. Each recorder shall receive a base fee of one dollar for filing and preserving such copies and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code, and the secretary of state shall receive for filing and for recording the copies a fee of twenty-five dollars.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and

license renewals under this section. Through June 30, ~~2004~~ 2006, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

- (1) Issue the license renewal for the public water system;
- (2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;
- (3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6111.06. (A) All proceedings of the director of environmental

protection, or ~~his~~ of the director's officers or agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to 6111.38~~ of the Revised Code, including the adoption, issuance, modification, rescission, or revocation of rules and regulations, permits, orders, and notices, and the conduct of hearings, except standards of water quality adopted pursuant to section 6111.041 of the Revised Code, shall be subject to and governed by sections 119.01 to 119.13, and Chapter 3745. of the Revised Code.

(B) The director shall not refuse to issue a permit, nor modify or revoke a permit already issued, unless the applicant or permit holder has been afforded an opportunity for a hearing prior to the refusal to issue the permit or prior to the modification or revocation of the permit.

(C) Whenever the director officially determines that an emergency exists requiring immediate action to protect the public health or welfare, ~~he~~ the director may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding division (A) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the director shall be afforded a hearing as soon as possible, and not later than twenty days after such application. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it. No such emergency order shall remain in effect for more than sixty days after its issuance.

Sec. 6115.09. Within thirty days after the sanitary district has been declared a corporation by the court, the clerk of such court shall transmit to the secretary of state, and to the county recorder in each of the counties having lands in said district, copies of the findings and the decree of the court incorporating said district. The same shall be filed and recorded in the office of the secretary of state in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations. Copies shall also be filed and become permanent records in the office of the recorder of each county in which a part of the district lies. Each recorder shall receive a base fee of one dollar for filing and preserving such copies and a housing trust fund fee of one dollar pursuant to section 317.36 of the Revised Code, and the secretary of state shall receive for filing and for recording said copies such fees as are provided by law for like services in similar cases.

Sec. 6117.02. (A) The board of county commissioners shall fix reasonable rates, including penalties for late payments, for the use, or the availability for use, of the sanitary facilities of a sewer district to be paid by

every person and public agency whose premises are served, or capable of being served, by a connection directly or indirectly to those facilities when those facilities are owned or operated by the county and may change the rates from time to time as it considers advisable. When the sanitary facilities to be used by the county are owned by another public agency or person, the schedule of rates to be charged by the public agency or person for the use of the facilities by the county, or the formula or other procedure for their determination, shall be approved by the board at the time it enters into a contract for that use.

(B) The board also shall establish reasonable charges to be collected for the privilege of connecting to the sanitary facilities of the district, with the requirement that, prior to the connection, the charges shall be paid in full, or, if determined by the board to be equitable in a resolution relating to the payment of the charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The auditor shall record and maintain the information supplied in the sewer improvement record provided for in section 6117.33 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the use of sanitary facilities.

(C) When any of the sanitary rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid sanitary rates or charges and associated penalties. The lien shall be released immediately

upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the sanitary fund shall not be expended other than for the use and benefit of the district.

(D) The board may fix reasonable rates and charges, including connection charges and penalties for late payments, to be paid by any person or public agency owning or having possession or control of any properties

that are connected with, capable of being served by, or otherwise served directly or indirectly by, drainage facilities owned or operated by or under the jurisdiction of the county, including, but not limited to, properties requiring, or lying within an area of the district requiring, in the judgment of the board, the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and may change those rates and charges from time to time as it considers advisable. The In addition, the board may fix the rates and charges in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122.

The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122, the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge.

When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid drainage rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the drainage service for the particular property until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of drainage rates and charges applicable to the particular property.

All moneys collected as drainage rates, charges, or penalties in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct drainage fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the drainage fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the drainage facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of drainage facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for drainage purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of drainage facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the drainage fund shall not be expended other than for the use and benefit of the district.

(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary

engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

Sec. 6119.10. The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed ~~fifteen~~ twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds ~~fifteen~~ twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published not less than two consecutive weeks in at least one newspaper having a general circulation within the district. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding or advertising. All contracts shall have attached the certificate required by section 5705.41 of the Revised Code

duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds ~~fifteen~~ twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

Sec. 6301.05. The chief elected official of a ~~municipal corporation that is the type of local area defined in division (A)(1) of section 6301.01 of the Revised Code or is in the type of local area defined in division (A)(3) of that section~~ shall enter into a written ~~partnership~~ grant agreement with the director of job and family services in accordance with section ~~5101.213~~ 5101.20 of the Revised Code.

~~The board of county commissioners of a county that is the type of local area defined in division (A)(2) of section 6301.01 of the Revised Code or is in the type of local area defined in division (A)(3) of that section shall enter into a written partnership agreement with the director of job and family services in accordance with section 5101.21 of the Revised Code.~~

A grant agreement entered into pursuant to this section shall include the responsibility of municipal corporations and the board of county commissioners to be accountable to the department of job and family services for the use of funds provided through the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C. 2801, as amended, including regulations issued by the United States department of labor pursuant to that act.

Sec. 6301.07. (A) Every workforce policy board, with the agreement of the chief elected officials of the local area, and after holding public hearings that allow public comment and testimony, shall prepare a workforce development plan ~~and incorporate that plan into and attach that plan to the partnership agreement required under section 6301.05 of the Revised Code.~~ The plan shall accomplish all of the following:

(1) Identify the workforce investment needs of businesses in the local area, identify projected employment opportunities, and identify the job skills necessary to obtain those opportunities;

(2) Identify the local area's workforce development needs for youth, dislocated workers, adults, displaced homemakers, incumbent workers, and any other group of workers identified by the workforce policy board;

(3) Determine the distribution of workforce development resources and

funding to be distributed for each workforce development activity to meet the identified needs, utilizing the funds allocated pursuant to the "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, as amended;

(4) Give priority to youth receiving independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code when determining distribution of workforce development resources and workforce development activity funding;

(5) Review the minimum curriculum required by the state workforce policy board for certifying training providers and identify any additional curriculum requirements to include in contracts between the training providers and the chief elected officials of the local area;

(6) Establish performance standards for service providers that reflect local workforce development needs;

(7) Describe any other information the chief elected officials of the local area require.

(B) A workforce policy board may provide policy guidance and recommendations to the chief elected officials of a local area for any workforce development activities.

(C) Nothing in this section prohibits the chief elected officials of a local area from assigning, through a partnership agreement, any duties in addition to the duties under this section to a workforce policy board, except that a workforce policy board cannot contract with itself for the direct provision of services in its local area. A workforce policy board may consult with the chief elected officials of its local area and make recommendations regarding the workforce development activities provided in its local area at any time.

SECTION 2. That existing sections 9.01, 9.83, 101.34, 101.72, 101.82, 102.02, 109.32, 109.57, 109.572, 117.101, 117.16, 117.44, 117.45, 121.04, 121.08, 121.084, 121.41, 121.48, 121.62, 122.011, 122.04, 122.08, 122.17, 122.171, 122.25, 122.651, 122.658, 122.87, 122.88, 123.01, 124.03, 124.15, 124.152, 124.181, 125.05, 125.06, 125.07, 125.15, 125.91, 125.92, 125.93, 125.95, 125.96, 125.98, 127.16, 131.02, 131.23, 131.35, 145.38, 147.01, 147.37, 149.011, 149.30, 149.31, 149.33, 149.331, 149.332, 149.333, 149.34, 149.35, 153.65, 164.14, 164.27, 165.09, 166.16, 173.06, 173.061, 173.062, 173.07, 173.071, 173.14, 173.26, 175.03, 175.21, 175.22, 183.02, 306.35, 306.99, 307.86, 307.87, 307.93, 307.98, 307.981, 307.987, 311.17, 317.32, 321.24, 323.01, 323.13, 325.31, 329.03, 329.04, 329.05, 329.051, 329.06, 340.021, 340.03, 341.05, 341.25, 504.03, 504.04, 505.376, 507.09, 511.12, 515.01, 515.07, 521.05, 715.013, 718.01, 718.02, 718.05, 718.11, 718.14, 718.15, 718.151, 731.14, 731.141, 735.05, 737.03, 753.22, 901.17,

901.21, 901.22, 901.63, 902.11, 921.151, 927.53, 927.69, 929.01, 955.51, 1309.109, 1317.07, 1321.21, 1333.99, 1337.11, 1346.02, 1501.04, 1503.05, 1513.05, 1515.08, 1519.05, 1521.06, 1521.063, 1531.26, 1533.08, 1533.10, 1533.101, 1533.11, 1533.111, 1533.112, 1533.12, 1533.13, 1533.151, 1533.19, 1533.23, 1533.301, 1533.32, 1533.35, 1533.40, 1533.54, 1533.631, 1533.632, 1533.71, 1533.82, 1541.10, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1563.42, 1702.59, 1711.13, 1711.15, 1711.17, 1751.05, 1751.11, 1751.12, 1751.13, 1751.16, 1751.60, 2101.16, 2117.06, 2117.25, 2133.01, 2151.352, 2151.3529, 2151.3530, 2151.83, 2151.84, 2152.19, 2301.02, 2301.03, 2301.58, 2305.234, 2329.07, 2329.66, 2335.39, 2505.13, 2715.041, 2715.045, 2716.13, 2743.02, 2743.191, 2743.51, 2743.60, 2743.65, 2915.01, 2915.02, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.093, 2915.095, 2915.10, 2915.101, 2915.13, 2917.41, 2921.13, 2923.35, 2925.44, 2929.38, 2933.43, 2935.36, 2949.091, 3111.04, 3119.01, 3121.01, 3123.952, 3125.12, 3301.0710, 3301.0711, 3301.0714, 3301.33, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, 3301.58, 3301.68, 3301.80, 3307.01, 3307.35, 3309.341, 3311.05, 3311.24, 3311.26, 3313.843, 3313.975, 3313.976, 3313.978, 3313.977, 3313.979, 3313.981, 3314.02, 3314.03, 3314.041, 3314.07, 3314.08, 3314.17, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.09, 3317.10, 3317.16, 3318.01, 3318.03, 3318.042, 3318.05, 3318.06, 3318.08, 3318.30, 3318.31, 3318.37, 3318.41, 3319.01, 3319.02, 3319.03, 3319.07, 3319.19, 3319.22, 3319.33, 3319.36, 3319.55, 3323.16, 3327.01, 3327.011, 3329.06, 3329.08, 3332.04, 3333.12, 3353.11, 3361.01, 3375.41, 3377.01, 3377.06, 3383.01, 3383.07, 3501.18, 3501.30, 3503.10, 3505.01, 3505.061, 3505.08, 3505.10, 3517.092, 3701.021, 3701.022, 3701.024, 3701.141, 3701.145, 3701.741, 3701.83, 3701.881, 3701.99, 3702.31, 3702.529, 3702.53, 3702.532, 3702.54, 3702.544, 3702.55, 3702.60, 3702.61, 3702.68, 3702.74, 3705.01, 3705.23, 3705.24, 3709.09, 3710.05, 3710.07, 3711.021, 3717.42, 3721.02, 3721.121, 3722.151, 3733.43, 3733.45, 3734.02, 3734.05, 3734.12, 3734.123, 3734.124, 3734.18, 3734.28, 3734.42, 3734.44, 3734.46, 3734.57, 3735.27, 3735.66, 3735.67, 3735.671, 3737.81, 3745.04, 3745.11, 3745.14, 3745.40, 3746.13, 3748.07, 3748.13, 3769.087, 3770.07, 3770.10, 3770.12, 3770.99, 3773.33, 3773.43, 3901.491, 3901.501, 3901.72, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4104.41, 4104.44, 4104.45, 4104.46, 4105.17, 4112.15, 4115.10, 4117.02, 4117.14, 4123.27, 4123.41, 4141.04, 4141.09, 4141.23, 4301.03, 4301.19, 4301.30, 4301.361, 4301.364, 4301.43,

4303.02, 4303.021, 4303.03, 4303.04, 4303.05, 4303.06, 4303.07, 4303.08, 4303.09, 4303.10, 4303.11, 4303.12, 4303.121, 4303.13, 4303.14, 4303.141, 4303.15, 4303.151, 4303.16, 4303.17, 4303.171, 4303.18, 4303.181, 4303.182, 4303.183, 4303.184, 4303.19, 4303.20, 4303.201, 4303.202, 4303.203, 4303.204, 4303.21, 4303.22, 4303.23, 4303.231, 4501.06, 4503.06, 4503.101, 4503.103, 4505.06, 4506.14, 4506.15, 4506.16, 4506.20, 4506.24, 4508.08, 4509.60, 4511.33, 4511.62, 4511.63, 4519.55, 4561.18, 4561.21, 4707.071, 4707.072, 4707.10, 4709.12, 4717.07, 4717.09, 4719.01, 4723.01, 4723.06, 4723.07, 4723.08, 4723.082, 4723.17, 4723.271, 4723.34, 4723.35, 4723.431, 4723.63, 4729.01, 4729.41, 4731.27, 4731.65, 4731.71, 4734.15, 4736.12, 4743.05, 4747.05, 4747.06, 4747.07, 4747.10, 4751.06, 4751.07, 4759.08, 4771.22, 4779.08, 4779.17, 4779.18, 4903.24, 4905.79, 4905.91, 4919.79, 4931.45, 4931.47, 4931.48, 4973.17, 4981.20, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.16, 5101.162, 5101.18, 5101.181, 5101.21, 5101.211, 5101.212, 5101.22, 5101.24, 5101.26, 5101.27, 5101.28, 5101.35, 5101.36, 5101.46, 5101.58, 5101.59, 5101.75, 5101.80, 5101.83, 5101.97, 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5103.154, 5104.01, 5104.011, 5104.02, 5104.04, 5104.30, 5104.32, 5107.02, 5107.30, 5107.37, 5107.40, 5107.60, 5108.01, 5108.03, 5108.06, 5108.07, 5108.09, 5108.10, 5111.016, 5111.0112, 5111.02, 5111.021, 5111.022, 5111.03, 5111.06, 5111.082, 5111.111, 5111.17, 5111.171, 5111.20, 5111.21, 5111.22, 5111.251, 5111.252, 5111.34, 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.92, 5111.94, 5112.03, 5112.08, 5112.17, 5112.31, 5112.99, 5115.01, 5115.02, 5115.03, 5115.04, 5115.05, 5115.07, 5115.10, 5115.11, 5115.13, 5115.15, 5115.20, 5119.61, 5119.611, 5123.01, 5123.051, 5123.19, 5123.60, 5123.801, 5126.01, 5126.042, 5126.11, 5126.12, 5126.121, 5126.15, 5126.18, 5126.44, 5139.04, 5139.33, 5139.34, 5139.36, 5139.41, 5139.43, 5139.87, 5153.122, 5153.16, 5153.163, 5153.60, 5153.69, 5153.72, 5153.78, 5310.15, 5502.01, 5502.13, 5513.01, 5515.07, 5549.21, 5703.052, 5705.39, 5705.41, 5709.20, 5709.21, 5709.22, 5709.25, 5709.26, 5709.27, 5709.61, 5709.62, 5709.63, 5709.632, 5709.64, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5713.30, 5715.27, 5715.39, 5717.03, 5719.07, 5725.19, 5727.111, 5727.30, 5727.32, 5727.33, 5727.56, 5727.84, 5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08, 5733.04, 5733.05, 5733.051, 5733.056, 5733.057, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.121, 5733.18, 5733.22, 5733.45, 5733.49, 5733.98, 5735.05, 5735.14, 5735.142, 5735.15, 5735.19, 5735.23, 5735.26, 5735.291, 5735.30, 5735.99, 5739.01, 5739.011, 5739.02, 5739.021, 5739.022, 5739.023,

5739.025, 5739.026, 5739.03, 5739.032, 5739.033, 5739.09, 5739.10, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.121, 5743.05, 5743.21, 5743.45, 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.12, 5747.31, 5747.80, 5901.021, 6101.09, 6109.21, 6111.06, 6115.09, 6117.02, 6119.10, 6301.05, and 6301.07, and sections 122.12, 125.831, 125.931, 125.932, 125.933, 125.934, 125.935, 131.38, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 173.54, 173.55, 173.56, 173.57, 173.58, 173.59, 319.311, 504.21, 718.03, 1333.96, 1533.06, 1533.39, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 2305.26, 3301.078, 3301.0719, 3301.0724, 3301.31, 3301.581, 3313.82, 3313.83, 3313.94, 3317.11, 3318.033, 3318.052, 3318.35, 3319.06, 3319.34, 3701.142, 3701.144, 3702.543, 3702.581, 4104.42, 4104.43, 4141.044, 4141.045, 5101.213, 5101.251, 5108.05, 5111.017, 5111.173, 5115.011, 5115.012, 5115.06, 5115.061, 5139.42, 5139.45, 5709.211, 5709.23, 5709.231, 5709.24, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 5727.39, 5727.44, 5733.111, 5739.012, 5739.034, 5741.011, 5747.131, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code are hereby repealed.

SECTION 3.01. That the version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, be amended to read as follows:

Sec. 921.22. The pesticide program fund is hereby created in the state treasury. ~~All~~ The portion of the money in the fund that is collected under this chapter shall be used to carry out the purposes of this chapter. The portion of the money in the fund that is collected under section 927.53 of the Revised Code shall be used to carry out the purposes specified in that section, the portion of the money in the fund that is collected under section 927.69 of the Revised Code shall be used to carry out the purposes specified in that section, and the portion of the money in the fund that is collected under section 927.701 of the Revised Code shall be used to carry out the purposes of that section. The fund shall consist of fees collected under sections 921.01 to 921.15, division (F) of section 927.53, and section 927.69 of the Revised Code, money collected under section 927.701 of the Revised Code, and all fines, penalties, costs, and damages, except court costs, that are collected by either the director of agriculture or the attorney general in consequence of any violation of this chapter.

SECTION 3.02. That the existing version of section 921.22 of the Revised Code that is scheduled to take effect July 1, 2004, is hereby repealed.

SECTION 3.03. Sections 3.01 and 3.02 of this act take effect July 1, 2004.

SECTION 3.04. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, be amended to read as follows:

Sec. 3332.04. The state board of career colleges and schools may appoint an executive director and such other staff as may be required for the performance of the board's duties and provide necessary facilities. In selecting an executive director, the board shall appoint an individual with a background or experience in the regulation of commerce, business, or education. The board may also arrange for services and facilities to be provided by the state board of education and the Ohio board of regents. All receipts of the board shall be deposited in the ~~career colleges and schools operating fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for the administration and enforcement of Chapter 3332. of the Revised Code. All investment earnings on the fund shall be credited to the~~ to the credit of the occupational licensing and regulatory fund.

SECTION 3.05. That the version of section 3332.04 of the Revised Code that is scheduled to take effect on July 1, 2003, is hereby repealed.

SECTION 3.06. Sections 3.04 and 3.05 of this act take effect July 1, 2003.

SECTION 3.07. That the version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a

dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses, advanced practice nurses, and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code.

(5) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(6) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than one hundred fifty per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111., disability assistance medical assistance under Chapter 5115.

of the Revised Code, or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(7) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection.

(8) "Nonprofit shelter or health care facility" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides shelter, health care services, or shelter and health care services to indigent and uninsured persons, except that "shelter or health care facility" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a medical facility that is operated for profit.

(9) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons or government entities.

(10) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any shelter or health care facility, or any other person or government entity.

(11) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(B)(1) Subject to divisions (E) and (F)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort

or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section.

(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (E) and (F)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision at a nonprofit shelter or health care facility to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (E) and (F)(3) of this section and section 3701.071 of the Revised Code, a nonprofit shelter or health care facility associated with a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic,

optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker in providing for the shelter or facility medical, dental, or other health-related diagnosis, care, or treatment to an indigent and uninsured person, unless the action or omission constitutes willful or wanton misconduct.

(E)(1) Except as provided in division (E)(2) of this section, the immunities provided by divisions (B), (C), and (D) of this section are not available to an individual or to a nonprofit shelter or health care facility if, at the time of an alleged injury, death, or loss to person or property, the individuals involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation;

(c) Delivery of a baby.

(2) Division (E)(1) of this section does not apply to an individual who provides, or a nonprofit shelter or health care facility at which the individual provides, diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(F)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, or nonprofit shelter or health care facility.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which an individual or a nonprofit shelter or health care facility may be entitled in connection with the provision of emergency or other diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to an individual or a nonprofit shelter or health care facility for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional or health care worker to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a nonprofit shelter or health care facility to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution,

sanitation, health, fire, zoning, or safety.

SECTION 3.08. That the existing version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.09. Sections 3.07 and 3.08 of this act take effect January 1, 2004.

SECTION 3.10. That the version of section 3734.44 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 3734.44. Notwithstanding the provisions of any law to the contrary, no permit or license shall be issued or renewed by the director of environmental protection, ~~the hazardous waste facility board~~, or a board of health:

(A) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant, in any prior performance record in the transportation, transfer, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste, infectious waste, or hazardous waste facility, given the potential for harm to human health and the environment that could result from the irresponsible operation of the facility, or, if no prior record exists, that the applicant is likely to exhibit that reliability, expertise, and competence;

(B) If any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof, has been convicted of any of the following crimes under the laws of this state or equivalent laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;

- (8) Arson;
 - (9) Burglary;
 - (10) Theft and related crimes;
 - (11) Forgery and fraudulent practices;
 - (12) Fraud in the offering, sale, or purchase of securities;
 - (13) Alteration of motor vehicle identification numbers;
 - (14) Unlawful manufacture, purchase, use, or transfer of firearms;
 - (15) Unlawful possession or use of destructive devices or explosives;
 - (16) A violation of section 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.32, or 2925.37 or Chapter 3719. of the Revised Code, unless the violation is for possession of less than one hundred grams of marihuana, less than five grams of marihuana resin or extraction or preparation of marihuana resin, or less than one gram of marihuana resin in a liquid concentrate, liquid extract, or liquid distillate form;
 - (17) Engaging in a pattern of corrupt activity under section 2923.32 of the Revised Code;
 - (18) A violation of the criminal provisions of Chapter 1331. of the Revised Code;
 - (19) Any violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations that is committed knowingly or recklessly, as defined in section 2901.22 of the Revised Code;
 - (20) A violation of any provision of Chapter 2909. of the Revised Code;
 - (21) Any offense specified in Chapter 2921. of the Revised Code.
- (C) Notwithstanding division (B) of this section, no applicant shall be denied the issuance or renewal of a permit or license on the basis of a conviction of any individual or business concern required to be listed in the disclosure statement or shown to have a beneficial interest in the business of the applicant or the permittee, other than an equity interest or debt liability, by the investigation thereof for any of the offenses enumerated in that division as disqualification criteria if that applicant has affirmatively demonstrated rehabilitation of the individual or business concern by a preponderance of the evidence. If any such individual was convicted of any of the offenses so enumerated that are felonies, a permit shall be denied unless five years have elapsed since the individual was fully discharged from imprisonment and parole for the offense, from a community control sanction imposed under section 2929.15 of the Revised Code, from a post-release control sanction imposed under section 2967.28 of the Revised Code for the offense, or imprisonment, probation, and parole for an offense that was committed prior to July 1, 1996. In determining whether an applicant has affirmatively demonstrated rehabilitation, the director, ~~the~~

~~hazardous waste facility board~~, or the board of health shall request a recommendation on the matter from the attorney general and shall consider and base the determination on the following factors:

(1) The nature and responsibilities of the position a convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions that may have contributed to the offense;

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work release programs, or the recommendation of persons who have or have had the applicant under their supervision;

(9) In the instance of an applicant that is a business concern, rehabilitation shall be established if the applicant has implemented formal management controls to minimize and prevent the occurrence of violations and activities that will or may result in permit or license denial or revocation or if the applicant has formalized those controls as a result of a revocation or denial of a permit or license. Those controls may include, but are not limited to, instituting environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain, and monitor compliance with applicable environmental laws and standards or instituting an antitrust compliance auditing program to help ensure full compliance with applicable antitrust laws. The business concern shall prove by a preponderance of the evidence that the management controls are effective in preventing the violations that are the subject of concern.

(D) Unless the director, ~~the hazardous waste facility board~~, or the board of health finds that the applicant has a history of compliance with environmental laws in this state and other jurisdictions and is presently in substantial compliance with, or on a legally enforceable schedule that will result in compliance with, environmental laws in this state and other jurisdictions;

(E) With respect to the approval of a permit, if the director ~~or the hazardous waste facility board~~ determines that current prosecutions or pending charges in any jurisdiction for any of the offenses enumerated in division (B) of this section against any individual or business concern required to be listed in the disclosure statement or shown by the

investigation to have a beneficial interest in the business of the applicant other than an equity interest or debt liability are of such magnitude that they prevent making the finding required under division (A) of this section, provided that at the request of the applicant or the individual or business concern charged, the director ~~or the hazardous waste facility board~~ shall defer decision upon the application during the pendency of the charge.

SECTION 3.11. That the existing version of section 3734.44 of the Revised Code that is scheduled to take effect on January 1, 2004, is hereby repealed.

SECTION 3.12. Sections 3.10 and 3.11 of this act take effect January 1, 2004.

SECTION 3.13. That the versions of sections 307.93, 2152.19, 2301.02, 2301.03, 2743.191, 2743.51, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 307.93. (A) The boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The center shall augment county and, where applicable, municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the sheriff of any of the contracting counties or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility who, in the opinion of the sentencing court, need programs of custody and rehabilitation not available at the county or municipal jail and by providing custody and rehabilitative programs in accordance with division (C) of this section, if applicable. The contract may include, but need not be limited to, provisions regarding the acquisition, construction, maintenance, repair, termination of operations, and administration of the center. The contract shall prescribe the manner of funding of, and debt assumption for, the center and the standards and

procedures to be followed in the operation of the center. Except as provided in division (H) of this section, the contracting counties and municipal corporations shall form a corrections commission to oversee the administration of the center. Members of the commission shall consist of the sheriff of each participating county, the president of the board of county commissioners of each participating county, the presiding judge of the court of common pleas of each participating county, or, if the court of common pleas of a participating county has only one judge, then that judge, the chief of police of each participating municipal corporation, the mayor or city manager of each participating municipal corporation, and the presiding judge or the sole judge of the municipal court of each participating municipal corporation. Any of the foregoing officers may appoint a designee to serve in the officer's place on the corrections commission. The standards and procedures shall be formulated and agreed to by the commission and may be amended at any time during the life of the contract by agreement of the parties to the contract upon the advice of the commission. The standards and procedures formulated by the commission shall include, but need not be limited to, designation of the person in charge of the center, the categories of employees to be employed at the center, the appointing authority of the center, and the standards of treatment and security to be maintained at the center. The person in charge of, and all persons employed to work at, the center shall have all the powers of police officers that are necessary for the proper performance of the duties relating to their positions at the center.

(B) Each board of county commissioners that enters a contract under division (A) of this section may appoint a building commission pursuant to section 153.21 of the Revised Code. If any commissions are appointed, they shall function jointly in the construction of a multicounty or multicounty-municipal correctional center with all the powers and duties authorized by law.

(C) Prior to the acceptance for custody and rehabilitation into a center established under this section of any persons who are designated by the department of rehabilitation and correction, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in section 5120.161 of the Revised Code, the corrections commission of a center established under this section shall enter into an agreement with the department of rehabilitation and correction under section 5120.161 of the Revised Code for the custody and rehabilitation in the center of persons who are designated by the department, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in that section, in exchange for a per diem fee per

person. Persons incarcerated in the center pursuant to an agreement entered into under this division shall be subject to supervision and control in the manner described in section 5120.161 of the Revised Code. This division does not affect the authority of a court to directly sentence a person who is convicted of or pleads guilty to a felony to the center in accordance with section 2929.16 of the Revised Code.

(D) Pursuant to section 2929.37 of the Revised Code, each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract under division (A) of this section may require a person who was convicted of an offense, who is under the charge of the sheriff of their county or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility, and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center as provided in that division, to reimburse the applicable county or municipal corporation for its expenses incurred by reason of the person's confinement in the center.

(E) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the corrections commission of a center may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center to pay a reception fee, a fee for medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.

(F)(1) The corrections commission of a center established under this section may establish a commissary for the center. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the center shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the center's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the center of necessary hygiene articles and writing materials.

(2) If a commissary is established, the corrections commission of a center established under this section shall establish a commissary fund for the center. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve

shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the center and to pay salary and benefits for employees of the center, or for any other persons, who work in or are employed for the sole purpose of providing service to the commissary. The corrections commission shall adopt rules and regulations for the operation of any commissary fund it establishes.

(G) In lieu of forming a corrections commission to administer a multicounty correctional center or a municipal-county or multicounty-municipal correctional center, the boards of county commissioners and the legislative authorities of the municipal corporations contracting to establish the center may also agree to contract for the private operation and management of the center as provided in section 9.06 of the Revised Code, but only if the center houses only misdemeanor inmates. In order to enter into a contract under section 9.06 of the Revised Code, all the boards and legislative authorities establishing the center shall approve and be parties to the contract.

(H) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center or is incarcerated in the center in the manner described in division (C) of this section, or if a person who is arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center pending trial, at the time of reception and at other times the officer, officers, or other person in charge of the operation of the center determines to be appropriate, the officer, officers, or other person in charge of the operation of the center may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The officer, officers, or other person in charge of the operation of the center may cause a convicted or accused offender in the center who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(I) As used in this section, "multicounty-municipal" means more than one county and a municipal corporation, or more than one municipal corporation and a county, or more than one municipal corporation and more than one county.

Sec. 2152.19. (A) If a child is adjudicated a delinquent child, the court

may make any of the following orders of disposition, in addition to any other disposition authorized or required by this chapter:

(1) Any order that is authorized by section 2151.353 of the Revised Code for the care and protection of an abused, neglected, or dependent child;

(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2152.41 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under section 2151.65 of the Revised Code;

(3) Place the child in a detention facility or district detention facility operated under section 2152.41 of the Revised Code, for up to ninety days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes. As a condition of community control in every case and in addition to any other condition that it imposes upon the child, the court shall require the child to abide by the law during the period of community control. As referred to in this division, community control includes, but is not limited to, the following sanctions and conditions:

(a) A period of basic probation supervision in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(b) A period of intensive probation supervision in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required each day to report to and leave a center or another approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(d) A period of community service of up to five hundred hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to two hundred hours for an act that would be a misdemeanor of the second, third, or fourth degree if committed by an adult, or up to thirty hours for an act that would be a minor misdemeanor if committed by an adult;

(e) A requirement that the child obtain a high school diploma, a

certificate of high school equivalence, vocational training, or employment;

(f) A period of drug and alcohol use monitoring;

(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(i) A requirement that the child serve monitored time;

(j) A period of house arrest with or without electronic monitoring;

(k) A period of electronic monitoring without house arrest or electronically monitored house arrest that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act.

A period of electronically monitored house arrest imposed under this division shall not extend beyond the child's twenty-first birthday. If a court imposes a period of electronically monitored house arrest upon a child under this division, it shall require the child: to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house arrest except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that can determine the child's location at designated times; to report periodically to a person designated by the court; and to enter into a written contract with the court agreeing to comply with all requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house arrest, and agreeing to waive the right to receive credit for any time served on electronically monitored house arrest toward the period of any other dispositional order imposed upon the child if the child violates any of the requirements of the dispositional order of electronically monitored house arrest. The court also may impose other reasonable requirements upon the child.

Unless ordered by the court, a child shall not receive credit for any time served on electronically monitored house arrest toward any other dispositional order imposed upon the child for the act for which was imposed the dispositional order of electronically monitored house arrest.

(l) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child or a suspension of the

registration of all motor vehicles registered in the name of the child. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for five or more consecutive days, seven or more school days in one school month, or twelve or more school days in a school year;

(7)(a) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being a habitual truant, do either or both of the following:

(i) Require the child to participate in a truancy prevention mediation program;

(ii) Make any order of disposition as authorized by this section, except that the court shall not commit the child to a facility described in division (A)(2) or (3) of this section unless the court determines that the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code or division (A)(6) of this section.

(b) If a child is adjudicated a delinquent child for being a chronic truant or a habitual truant who previously has been adjudicated an unruly child for being a habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, do either or both of the following:

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program;

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(8) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) A community corrections facility, if the child would be covered by

the definition of public safety beds for purposes of sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to this chapter.

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit:

(1) The child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, with the suspension and denial being in accordance with division (E)(1)(a), (c), (d), or (e) of section 2923.122 of the Revised Code.

(2) The child is adjudicated a delinquent child for committing an act that if committed by an adult would be a drug abuse offense or for violating division (B) of section 2917.11 of the Revised Code, with the suspension continuing until the child attends and satisfactorily completes a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending the program, the court shall retain any temporary instruction permit, probationary driver's license, or driver's license issued to the child, and the court shall return the permit or license when the child satisfactorily completes the program.

(C) The court may establish a victim-offender mediation program in which victims and their offenders meet to discuss the offense and suggest possible restitution. If the court obtains the assent of the victim of the delinquent act committed by the child, the court may require the child to participate in the program.

(D)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created a risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic

loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a public record. However, the court may furnish copies of the statement to the department of youth services if the delinquent child is committed to the department or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to this section shall be kept confidential and is not a public record. If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the court shall make available to the officer, for use in preparing the report, a copy of any victim impact statement regarding that person. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to this division shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this chapter.

The copy of a victim impact statement that is made available pursuant to this division to an officer preparing a criminal presentence investigation report shall be returned to the court by the officer immediately following its use in preparing the report.

(4) The department of youth services shall work with local probation departments and victim assistance programs to develop a standard victim impact statement.

(E) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, in addition to any order of disposition it makes under this section, the court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication of the child as an unruly or delinquent child for being an habitual or chronic truant may result in a criminal charge against the parent, guardian, or other person having care of

the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

(F)(1) During the period of a delinquent child's community control granted under this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court that places a delinquent child on community control under this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of community control if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court also shall provide the written notice described in division (E)(2) of this section to each parent, guardian, or custodian of the delinquent child who is described in that division.

(2) The court that places a child on community control under this section shall provide the child's parent, guardian, or other custodian with a written notice that informs them that authorized probation officers may conduct searches pursuant to division (E)(1) of this section. The notice shall specifically state that a permissible search might extend to a motor vehicle, another item of tangible or intangible personal property, or a place of residence or other real property in which a notified parent, guardian, or custodian has a right, title, or interest and that the parent, guardian, or custodian expressly or impliedly permits the child to use, occupy, or possess.

(G) If a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to this section and if the delinquent act for which the child is so committed is a sexually oriented offense, the court in the order of disposition shall do one of the following:

(1) Require that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code;

(2) Inform the person, organization, or entity that it is the preferred course of action in this state that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code and encourage the person, organization, or entity to provide that treatment.

Sec. 2301.03. (A) In Franklin county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1953, January 5, 1969, January 5, 1977, and January 2, 1997, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Franklin county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them. In addition to the judge's regular duties, the judge who is senior in point of service shall serve on the children services board and the county advisory board and shall be the administrator of the domestic relations division and its subdivisions and departments.

(B) In Hamilton county:

(1) The judge of the court of common pleas, whose term begins on January 1, 1957, and successors, and the judge of the court of common pleas, whose term begins on February 14, 1967, and successors, shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdiction conferred by those chapters.

(2) The judges of the court of common pleas whose terms begin on January 5, 1957, January 16, 1981, and July 1, 1991, and successors, shall be elected and designated as judges of the court of common pleas, division of domestic relations, and shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. On or after the first day of July and before the first day of August of 1991 and each year thereafter, a majority of the judges of the division of domestic relations shall elect one of the judges of the division as administrative judge of that division. If a majority of the judges of the division of domestic relations are unable for any reason to elect an administrative judge for the division before the first day of August, a majority of the judges of the Hamilton county court of common pleas, as soon as possible after that date, shall elect one of the judges of the division of domestic relations as administrative judge of that division. The term of the administrative judge shall begin on the earlier of the first day of August

of the year in which the administrative judge is elected or the date on which the administrative judge is elected by a majority of the judges of the Hamilton county court of common pleas and shall terminate on the date on which the administrative judge's successor is elected in the following year.

In addition to the judge's regular duties, the administrative judge of the division of domestic relations shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary by the judges in the discharge of their various duties.

The administrative judge of the division of domestic relations also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division, and shall fix the duties of its personnel. The duties of the personnel, in addition to those provided for in other sections of the Revised Code, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

The board of county commissioners shall appropriate the sum of money each year as will meet all the administrative expenses of the division of domestic relations, including reasonable expenses of the domestic relations judges and the division counselors and other employees designated to conduct the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, conciliation and counseling, and all matters relating to those cases and counseling, and the expenses involved in the attendance of division personnel at domestic relations and welfare conferences designated by the division, and the further sum each year as will provide for the adequate operation of the division of domestic relations.

The compensation and expenses of all employees and the salary and expenses of the judges shall be paid by the county treasurer from the money appropriated for the operation of the division, upon the warrant of the county auditor, certified to by the administrative judge of the division of domestic relations.

The summonses, warrants, citations, subpoenas, and other writs of the division may issue to a bailiff, constable, or staff investigator of the division or to the sheriff of any county or any marshal, constable, or police officer,

and the provisions of law relating to the subpoenaing of witnesses in other cases shall apply insofar as they are applicable. When a summons, warrant, citation, subpoena, or other writ is issued to an officer, other than a bailiff, constable, or staff investigator of the division, the expense of serving it shall be assessed as a part of the costs in the case involved.

(3) The judge of the court of common pleas of Hamilton county whose term begins on January 3, 1997, and the successor to that judge whose term begins on January 3, 2003, shall each be elected and designated for one term only as the drug court judge of the court of common pleas of Hamilton county. The successors to the judge whose term begins on January 3, 2003, shall be elected and designated as judges of the general division of the court of common pleas of Hamilton county and shall not have the authority granted by division (B)(3) of this section. The drug court judge may accept or reject any case referred to the drug court judge under division (B)(3) of this section. After the drug court judge accepts a referred case, the drug court judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer to the drug court judge any case, and any companion cases, the judge determines meet the criteria described under divisions (B)(3)(a) and (b) of this section. If the drug court judge accepts referral of a referred case, the case, and any companion cases, shall be transferred to the drug court judge. A judge may refer a case meeting the criteria described in divisions (B)(3)(a) and (b) of this section that involves a violation of a condition of a community control sanction to the drug court judge, and, if the drug court judge accepts the referral, the referring judge and the drug court judge have concurrent jurisdiction over the case.

A judge of the general division of the court of common pleas of Hamilton county and a judge of the Hamilton county municipal court may refer a case to the drug court judge under division (B)(3) of this section if the judge determines that both of the following apply:

(a) One of the following applies:

(i) The case involves a drug abuse offense, as defined in section 2925.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(ii) The case involves a theft offense, as defined in section 2913.01 of the Revised Code, that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(b) All of the following apply:

(i) The case involves an offense for which a community control sanction may be imposed or is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(ii) The defendant has no history of violent behavior.

(iii) The defendant has no history of mental illness.

(iv) The defendant's current or past behavior, or both, is drug or alcohol driven.

(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.

(vi) The defendant has no acute health condition.

(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.

(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.

(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(C) In Lorain county, the judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. They shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage

proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(D) In Lucas county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1955, and January 3, 1965, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. All divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them.

The judge of the division of domestic relations, senior in point of service, shall be considered as the presiding judge of the court of common pleas, division of domestic relations, and shall be charged exclusively with the assignment and division of the work of the division and the employment and supervision of all other personnel of the domestic relations division.

(2) The judges of the court of common pleas whose terms begin on January 5, 1977, and January 2, 1991, and successors shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lucas county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judges of the division in the discharge of their various duties.

The judge of the court of common pleas, juvenile division, senior in point of service, also shall designate the title, compensation, expense allowance, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the juvenile division is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in that judge's division necessitates it, the duties shall be performed by the judges of the other of those divisions.

(E) In Mahoning county:

(1) The judge of the court of common pleas whose term began on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, division of domestic relations, and shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. In addition to the judge's regular duties, the judge of the court of common pleas, division of domestic relations, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary in the discharge of the various duties of the judge's office.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term began on January 2, 1969, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Mahoning county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the

division engaged in handling, servicing, or investigating juvenile cases, including any referees considered necessary by the judge in the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and counseling and conciliation services that may be made available to persons requesting them, whether or not the persons are parties to an action pending in the division.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties, or the volume of cases pending in that judge's division necessitates it, that judge's duties shall be performed by another judge of the court of common pleas.

(F) In Montgomery county:

(1) The judges of the court of common pleas whose terms begin on January 2, 1953, and January 4, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. These judges shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, 2301.18, and 2301.19 of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of

Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

If one of the judges of the court of common pleas, division of domestic relations, or one of the judges of the court of common pleas, juvenile division, is sick, absent, or unable to perform that judge's duties or the volume of cases pending in that judge's division necessitates it, the duties of that judge may be performed by the judge or judges of the other of those divisions.

(G) In Richland county, ~~the~~:

(1) The judge of the court of common pleas whose term begins on January 1, 1957, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Richland county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. That judge shall have all of the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and assigned to that judge and hear all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to that judge, except in cases that for some special reason are assigned to some other judge of the court of common pleas that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the division of domestic relations shall have assigned to that judge and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care

of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judge of the division of domestic relations shall have assigned to that judge and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

(2) The judge of the court of common pleas whose term begins on January 3, 2005, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Richland county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. The judge of the juvenile division shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any magistrates whom the judge considers necessary for the discharge of the judge's various duties.

The judge of the juvenile division also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling, conciliation, and mediation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(H) In Stark county, the judges of the court of common pleas whose terms begin on January 1, 1953, January 2, 1959, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Stark county and shall be elected and designated as

judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases, except cases that are assigned to some other judge of the court of common pleas for some special reason, shall be assigned to the judges.

The judge of the division of domestic relations, second most senior in point of service, shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, and necessary referees required for the judge's respective court.

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 of the Revised Code and with the assignment and division of the work of the division and the employment and supervision of all other personnel of the division, including, but not limited to, that judge's necessary referees, but excepting those employees who may be appointed by the judge second most senior in point of service. The senior judge further shall serve in every other position in which the statutes permit or require a juvenile judge to serve.

(I) In Summit county:

(1) The judges of the court of common pleas whose terms begin on January 4, 1967, and January 6, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them and hear all divorce, dissolution of marriage, legal separation, and annulment cases that come before the court. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The judge of the division of domestic relations, senior in point of

service, shall be the administrator of the domestic relations division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the division, including any necessary referees, who are engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases. That judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and of any counseling and conciliation services that are available upon request to all persons, whether or not they are parties to an action pending in the division.

(2) The judge of the court of common pleas whose term begins on January 1, 1955, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Summit county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any case pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children or any post-decree proceeding arising from any case pertaining to any of those matters. The judge of the juvenile division shall not have jurisdiction or the power to hear, and shall not be assigned, any proceeding under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.

The juvenile judge shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of juvenile cases and of any counseling and conciliation services that are available upon request to persons, whether or not they are parties to an action pending in the division.

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge senior in point of service shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge senior in point of service also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judges of the court of common pleas whose terms begin on January 3, 1987, and January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county, shall be elected and designated as judges of the court of common

pleas, juvenile division, and shall be the juvenile judges as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, who is senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments. The judge, senior in point of service, shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

(2) The administrative judge is administrator of the domestic relations division and its subdivisions and departments and has the following powers concerning division personnel:

- (a) Full charge of the employment, assignment, and supervision;
- (b) Sole determination of compensation, duties, expenses, allowances, hours, leaves, and vacations.

(3) "Division personnel" include persons employed or referees engaged

in hearing, servicing, investigating, counseling, or conciliating divorce, dissolution of marriage, legal separation and annulment matters.

(M) In Lake county:

(1) The judge of the court of common pleas whose term begins on January 2, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lake county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all the divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(2) The judge of the court of common pleas whose term begins on January 4, 1979, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Lake county, shall be elected and designated as judge of the court of common pleas, juvenile division, and shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code, with the powers and jurisdictions conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to

other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions.

(N) In Erie county, the judge of the court of common pleas whose term begins on January 2, 1971, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge.

(O) In Greene county:

(1) The judge of the court of common pleas whose term begins on January 1, 1961, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and domestic violence cases and all other cases related to domestic relations, except cases that for some special reason are assigned to some other judge of the court of common pleas.

The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the division. The judge also shall designate the title, compensation, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and the provision of counseling and conciliation services that the division considers necessary and makes

available to persons who request the services, whether or not the persons are parties in an action pending in the division. The compensation for the personnel shall be paid from the overall court budget and shall be included in the appropriations for the existing judges of the general division of the court of common pleas.

(2) The judge of the court of common pleas whose term begins on January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Greene county, shall be elected and designated as judge of the court of common pleas, juvenile division, and, on or after January 1, 1995, shall be the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code with the powers and jurisdiction conferred by those chapters. The judge of the court of common pleas, juvenile division, shall be the administrator of the juvenile division and its subdivisions and departments. The judge shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division who are engaged in handling, servicing, or investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the court makes available to persons, whether or not the persons are parties to an action pending in the court, who request the services.

(3) If one of the judges of the court of common pleas, general division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the general division necessitates it, the duties of that judge of the general division shall be performed by the judge of the division of domestic relations and the judge of the juvenile division.

(P) In Portage county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Portage county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall

be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Q) In Clermont county, the judge of the court of common pleas, whose term begins January 2, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Clermont county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(R) In Warren county, the judge of the court of common pleas, whose term begins January 1, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Warren county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judge shall

be charged with the assignment and division of the work of the division and with the employment and supervision of all other personnel of the domestic relations division.

The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(S) In Licking county, the judge of the court of common pleas, whose term begins January 1, 1991, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Licking county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(T) In Allen county, the judge of the court of common pleas, whose term begins January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Allen county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(U) In Medina county, the judge of the court of common pleas whose term begins January 1, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Medina county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree

proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(V) In Fairfield county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Fairfield county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge also has concurrent jurisdiction with the probate-juvenile division of the court of common pleas of Fairfield county with respect to and may hear cases to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state, cases that are commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal

separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, and post-decree proceedings and matters arising from those types of cases.

The judge of the domestic relations division shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel of the division, in addition to other statutory duties, shall include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing any counseling and conciliation services that the division makes available to persons, regardless of whether the persons are parties to an action pending in the division, who request the services. When the judge hears a case to determine the custody of a child, as defined in section 2151.011 of the Revised Code, who is not the ward of another court of this state or a case that is commenced by a parent, guardian, or custodian of a child, as defined in section 2151.011 of the Revised Code, to obtain an order requiring a parent of the child to pay child support for that child when the request for that order is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, an action for support under Chapter 3115. of the Revised Code, or an action that is within the exclusive original jurisdiction of the probate-juvenile division of the court of common pleas of Fairfield county and that involves an allegation that the child is an abused, neglected, or dependent child, the duties of the personnel of the domestic relations division also include the handling, servicing, and investigation of those types of cases.

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark

county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that court.

(X) In Scioto county, the judge of the court of common pleas whose term begins January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Scioto county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, all cases arising under Chapter 3111. of the Revised Code, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, visitation, and all post-decree proceedings and matters arising from those cases and proceedings, except in cases that for some special reason are assigned to another judge of the court of common pleas. The judge shall be charged with the assignment and division of the work of the division and with the employment and supervision of the personnel of the division.

The judge shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacations of the personnel of the division and shall fix the duties of the personnel of the division. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, cases arising under Chapter 3111. of the Revised Code, and proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and providing counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services.

(Y) In Auglaize county, the judge of the probate and juvenile divisions of the Auglaize county court of common pleas also shall be the administrative judge of the domestic relations division of the court and shall be assigned all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court. The judge shall have all powers as administrator of the domestic relations division and shall have charge of the personnel engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any referees considered necessary for the discharge of the judge's various duties.

(Z)(1) In Marion county, the judge of the court of common pleas whose term begins on February 9, 1999, and the successors to that judge, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Marion county and shall be elected and designated as judge of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, that judge, and the successors to that judge, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to that judge and the successors to that judge. Except as provided in division (Z)(2) of this section and notwithstanding any other provision of

any section of the Revised Code, on and after February 9, 2003, the judge of the court of common pleas of Marion county whose term begins on February 9, 1999, and the successors to that judge, shall have all the powers relating to the probate division of the court of common pleas of Marion county in addition to the powers previously specified in this division, and shall exercise concurrent jurisdiction with the judge of the probate division of that court over all matters that are within the jurisdiction of the probate division of that court under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division of that court otherwise specified in division (Z)(1) of this section.

(2) The judge of the domestic relations-juvenile-probate division of the court of common pleas of Marion county or the judge of the probate division of the court of common pleas of Marion county, whichever of those judges is senior in total length of service on the court of common pleas of Marion county, regardless of the division or divisions of service, shall serve as the clerk of the probate division of the court of common pleas of Marion county.

(3) On and after February 9, 2003, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Marion county, as being references to both "the probate division" and "the domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations- juvenile-probate division." On and after February 9, 2003, all references in law to "the clerk of the probate court" shall be construed, with respect to Marion county, as being references to the judge who is serving pursuant to division (Z)(2) of this section as the clerk of the probate division of the court of common pleas of Marion county.

(AA) In Muskingum county, the judge of the court of common pleas whose term begins on January 2, 2003, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Muskingum county and shall be elected and designated as the judge of the court of common pleas, division of domestic relations. The judge shall be assigned and hear all divorce, dissolution of marriage, legal separation, and annulment cases and all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code. Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judge shall be assigned and hear all cases pertaining to paternity,

visitation, child support, the allocation of parental rights and responsibilities for the care of children, and the designation for the children of a place of residence and legal custodian, and all post-decree proceedings arising from any case pertaining to any of those matters.

(BB) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

(a) The payment of awards of reparations that are granted by the attorney general;

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;

(c) The compensation of witnesses as provided in division ~~(B)~~(J) of section 2743.65 of the Revised Code;

(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;

(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;

(f) The costs of investigation and decision-making as certified by the attorney general;

(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;

(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;

(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;

(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;

(k) The payment of costs of administering a DNA specimen collection

procedure pursuant to section 2152.74 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section and pursuant to section 2901.07 of the Revised Code in relation to any act identified in division (E)(1) to (5) of that section, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code.

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any other appropriation for emergencies or contingencies to pay the award, the attorney general shall request the general assembly to make an appropriation sufficient to pay the award, and no payment shall be made until the appropriation has been made. The attorney general shall make this appropriation request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. If, prior to the

time that an appropriation is made by the general assembly pursuant to this division, the fund has sufficient unencumbered funds to pay the award or part of the award, the available funds shall be used to pay the award or part of the award, and the appropriation request shall be amended to request only sufficient funds to pay that part of the award that is unpaid.

(C) The attorney general shall not make payment on a decision or order granting an award until all appeals have been determined and all rights to appeal exhausted, except as otherwise provided in this section. If any party to a claim for an award of reparations appeals from only a portion of an award, and a remaining portion provides for the payment of money by the state, that part of the award calling for the payment of money by the state and not a subject of the appeal shall be processed for payment as described in this section.

(D) The attorney general shall prepare itemized bills for the costs of printing and distributing the pamphlet the attorney general prepares pursuant to section 109.42 of the Revised Code. The itemized bills shall set forth the name and address of the persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA specimen" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

(A) "Claimant" means both of the following categories of persons:

(1) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

(i) A resident of the United States;

(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.

(b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;

(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

(iii) Was retired and receiving social security or any other retirement income;

(iv) Was sixty years of age or older;

(v) Was temporarily in another state for the purpose of receiving medical treatment;

(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of employment or employee benefits;

(viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division

(A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

- (1) The offender;
- (2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;
- (3) Social security, medicare, and medicaid;
- (4) State-required, temporary, nonoccupational disability insurance;
- (5) Workers' compensation;
- (6) Wage continuation programs of any employer;
- (7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;
- (8) A contract providing prepaid hospital and other health care services, or benefits for disability;
- (9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;
- (10) Any compensation recovered or recoverable under the laws of another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

- (a) The person engaging in the conduct intended to cause personal

injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code.

(3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.

(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F)(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application. The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type ~~shall not exceed two and seven thousand five hundred dollars~~ in the aggregate for all immediate family members of a victim of that type.

(3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.

(4) "Allowable expense" includes attorney's fees not exceeding two thousand five hundred dollars, at a rate not exceeding one hundred fifty dollars per hour, incurred to successfully obtain a restraining order, custody

order, or other order to physically separate a victim from an offender, if the attorney has not received payment under section 2743.65 of the Revised Code for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's death.

(J) "Dependent's replacement services loss" means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

(1) Criminally injurious conduct;
(2) The good faith effort of any person to prevent criminally injurious conduct;

(3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of ~~five~~ seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the

offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

(a) Intimidate or coerce a civilian population;

(b) Influence the policy of any government by intimidation or coercion;

(c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means reasonable and necessary costs

of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.

(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.

(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to a the victim ~~within the first degree~~ by affinity or consanguinity.

(X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Sec. 2929.38. (A) A board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility described in division (A) of section 2929.37 of the Revised Code, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, to pay a reasonable fee for any medical or dental treatment or service requested by and provided to that prisoner, and to pay the fee for a random drug test assessed under division (E) of section 341.26, and division (E) of section 753.33 of the Revised Code. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided. No prisoner confined in the local detention facility shall be denied any necessary medical care because of inability to pay the fees.

(B) Upon assessment of a one-time reception fee as described in division (A) of this section, the provision of the requested medical treatment or service, or the assessment of a fee for a random drug test, payment of the required fee may be automatically deducted from the prisoner's inmate account in the business office of the local detention facility in which the prisoner is confined. If there is no money in the account, a deduction may be made at a later date during the prisoner's confinement if the money becomes

available in the account. If, after release, the prisoner has an unpaid balance of those fees, the sheriff, legislative authority of the municipal corporation, corrections commission, judicial corrections board, or other entity that operates the local detention facility described in division (A) of section 2929.37 of the Revised Code may bill the prisoner for the payment of the unpaid fees. Fees received for medical or dental treatment or services shall be paid to the commissary fund, if one exists for the facility, or if no commissary fund exists, to the general fund of the treasury of the political subdivision that incurred the expenses, in the same proportion as those expenses were borne by the political subdivision. Fees received for medical treatment or services that are placed in the commissary fund under this division shall be used for the same purposes as profits from the commissary fund, except that they shall not be used to pay any salary or benefits of any person who works in or is employed for the sole purpose of providing service to the commissary.

(C) Any fee paid by a person under this section shall be deducted from any medical or dental costs that the person is ordered to reimburse under a financial sanction imposed pursuant to section 2929.28 of the Revised Code or to repay under a policy adopted under section 2929.37 of the Revised Code.

(D) As used in this section, "inmate account" has the same meaning as in section 2969.21 of the Revised Code.

Sec. 4506.14. (A) Commercial driver's licenses shall expire as follows:

(1) Except as provided in division (A)(3) of this section, each such license issued to replace an operator's or chauffeur's license shall expire on the original expiration date of the operator's or chauffeur's license and, upon renewal, shall expire on the licensee's birthday in the fourth year after the date of issuance.

(2) Except as provided in division (A)(3) of this section, each such license issued as an original license to a person whose residence is in this state shall expire on the licensee's birthday in the fourth year after the date of issuance, and each such license issued to a person whose temporary residence is in this state shall expire in accordance with rules adopted by the registrar of motor vehicles. A license issued to a person with a temporary residence in this state is nonrenewable, but may be replaced with a new license within ninety days prior to its expiration upon the applicant's compliance with all applicable requirements.

(3) Each such license issued to replace the operator's or chauffeur's license of a person who is less than twenty-one years of age, and each such license issued as an original license to a person who is less than twenty-one

years of age, shall expire on the licensee's twenty-first birthday.

(B) No commercial driver's license shall be issued for a period longer than four years and ninety days. Except as provided in section 4507.12 of the Revised Code, the registrar may waive the examination of any person applying for the renewal of a commercial driver's license issued under this chapter, provided that the applicant presents either an unexpired commercial driver's license or a commercial driver's license that has expired not more than six months prior to the date of application.

(C) Subject to the requirements of this chapter and except as provided in division (A)(2) of this section in regard to a person whose temporary residence is in this state, every commercial driver's license shall be renewable ninety days before its expiration upon payment of the fees required by section 4506.08 of the Revised Code. Each person applying for renewal of a commercial driver's license shall complete the application form prescribed by section 4506.07 of the Revised Code and shall provide all certifications required. If the person wishes to retain an endorsement authorizing the person to transport hazardous materials, the person shall take and successfully complete the written test for the endorsement and shall submit to any background check required by federal law.

(D) Each person licensed as a driver under this chapter shall notify the registrar of any change in the person's address within ten days following that change. The notification shall be in writing on a form provided by the registrar and shall include the full name, date of birth, license number, county of residence, social security number, and new address of the person.

(E) Whoever violates division (D) of this section is guilty of a minor misdemeanor.

Sec. 4506.15. (A) No person shall do any of the following:

(1) Drive a commercial motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance in the person's blood, breath, or urine;

(2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more;

(3) Drive a commercial motor vehicle while under the influence of a controlled substance;

(4) Knowingly leave the scene of an accident involving a commercial motor vehicle driven by the person;

(5) Use a commercial motor vehicle in the commission of a felony;

(6) Refuse to submit to a test under section 4506.17 of the Revised Code;

(7) Violate an out-of-service order issued under this chapter;

(8) Violate any prohibition described in divisions (A)(2) to (7) of this section while transporting hazardous materials;

(9) Use a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in section 3719.01 of the Revised Code;

(10) Drive a commercial motor vehicle in violation of any provision of sections 4511.61 to 4511.63 of the Revised Code or any federal or local law or ordinance pertaining to railroad-highway grade crossings.

(B) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.16. (A) Whoever violates division (A)(1) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, immediately shall be placed out-of-service for twenty-four hours, in addition to any disqualification required by this section and any other penalty imposed by the Revised Code.

(B) The registrar of motor vehicles shall disqualify any person from operating a commercial motor vehicle as follows:

(1) ~~Subject to division (B)(4) of this section, upon~~ Upon a first conviction for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, one year, ~~in addition to any other penalty imposed by the Revised Code;~~

(2) ~~Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years, in addition to any other penalty imposed by the Revised Code;~~

(3) ~~Upon and upon~~ a second conviction ~~for a violation of any provision of divisions (A)(2) to (7) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, or any combination of such violations~~ arising from two or more separate incidents, the person shall be disqualified for life or for any other period of time as determined by the United States secretary of transportation and designated by the director of public safety by rule, ~~in addition to any other penalty imposed by the Revised Code;~~

~~(4)(2)~~ Upon a first conviction for a violation of division (A)(8) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, three years;

~~(3)~~ Upon conviction of a violation of division (A)(5)(9) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction in connection with the manufacture, distribution, or dispensing

~~of a controlled substance or the possession with intent to manufacture, distribute, or dispense a controlled substance, the person shall be disqualified for life, in addition to any other penalty imposed by the Revised Code;~~

(4) Upon a first conviction for a violation of division (A)(10) of section 4506.15 of the Revised Code or a similar law of another state or a foreign jurisdiction, occurring in a three-year period, the person shall be disqualified for not less than sixty days, upon a second conviction occurring in the three-year period, the person shall be disqualified for not less than one hundred twenty days, and upon a subsequent conviction occurring within a three-year period, the person shall be disqualified for not less than one year;

(5) Upon conviction of two serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for sixty days,~~in addition to any other penalty imposed by the Revised Code;~~

(6) Upon conviction of three serious traffic violations involving the operation of a commercial motor vehicle by the person and arising from separate incidents occurring in a three-year period, the person shall be disqualified for one hundred twenty days,~~in addition to any other penalty imposed by the Revised Code.~~

(C) For the purposes of this section, conviction of a violation for which disqualification is required may be evidenced by any of the following:

(1) A judgment entry of a court of competent jurisdiction in this or any other state;

(2) An administrative order of a state agency of this or any other state having statutory jurisdiction over commercial drivers;

(3) A computer record obtained from or through the commercial driver's license information system;

(4) A computer record obtained from or through a state agency of this or any other state having statutory jurisdiction over commercial drivers or the records of commercial drivers.

(D) Any record described in division (C) of this section shall be deemed to be self-authenticating when it is received by the bureau of motor vehicles.

(E) When disqualifying a driver, the registrar shall cause the records of the bureau to be updated to reflect that action within ten days after it occurs.

(F) The registrar immediately shall notify a driver who is finally convicted of any offense described in section 4506.15 of the Revised Code or division (B)(3), (4), (5), or (6) of this section and thereby is subject to disqualification, of the offense or offenses involved, of the length of time for

which disqualification is to be imposed, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether the disqualification order is supported by reliable evidence. The registrar shall adopt rules to implement this division.

(G) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license is not otherwise suspended. A person whose commercial driver's license is suspended shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension.

(H) The disqualifications imposed under this section are in addition to any other penalty imposed by the Revised Code.

Sec. 4506.20. (A) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the information specified in section 4506.20 of the Revised Code.

(B) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked, or canceled by any state or a foreign jurisdiction;

(2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(C) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of section 4506.15 of the Revised Code.

(D)(1) Whoever violates division (A) or (B) of this section is guilty of a misdemeanor of the first degree.

(2) Whoever violates division (C) of this section may be assessed a fine not to exceed ten thousand dollars.

Sec. 4511.33. (A) Whenever any roadway has been divided into two or

more clearly marked lanes for traffic, or wherever within municipal corporations traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle or trackless trolley shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle or trackless trolley shall not be driven in the center lane except when overtaking and passing another vehicle or trackless trolley where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle or trackless trolley is proceeding and is posted with signs to give notice of such allocation.

(3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles and trackless trolleys shall obey the directions of such signs.

(4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

Sec. 4511.62. (A)(1) Whenever any person driving a vehicle or trackless trolley approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.

(b) A crossing gate is lowered.

(c) A flagperson gives or continues to give a signal of the approach or

passage of a train.

(d) There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other vehicles, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.

(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.

(f) There is insufficient undercarriage clearance to safely negotiate the crossing.

(2) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to ~~(e)~~(f) of this section exist at the crossing.

(B) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4511.63. (A) ~~The operator of any motor vehicle or trackless trolley, carrying passengers, for hire, of any school bus, any vehicle described in division (C) of this section, or of any vehicle carrying explosives or flammable liquids as transporting a cargo or as such part of a cargo as material or materials required to constitute a hazard be placarded under 49 C.F.R. Parts 100-185,~~ before crossing at grade any track of a railroad, shall stop the vehicle ~~or trackless trolley~~ and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking, and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.

(B) This section does not apply at any ~~of the following:~~

~~(1) Street~~ street railway grade crossings within a municipal corporation, or to abandoned tracks, spur tracks, side tracks, and industrial tracks when the public utilities commission has authorized and approved the crossing of the tracks without making the stop required by this section;

~~(2) Through June 30, 1995, a street railway grade crossing where~~

~~out of service signs are posted in accordance with section 4955.37 of the Revised Code.~~

(C) This section applies to any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.

(D) For purposes of this section, "bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.

(E) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or section 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or trackless trolley upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this division that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by division (B) of this section.

(B) Every school bus shall be equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, and an automatically extended stop warning sign of a type approved by the state board of education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs

offered by community boards of mental health and county boards of mental retardation and developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the board.

(C) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle, streetcar, or trackless trolley need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle, streetcar, or trackless trolley overtaking the school bus shall comply with division (A) of this section.

(D) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(E) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and county boards of mental retardation and developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child's or person's residence side of the road.

(F)(1) Whoever violates division (A) of this section may be fined an amount not to exceed five hundred dollars. A person who is issued a citation for a violation of division (A) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to

the court, and the court or clerk of the court immediately shall forward the license to the registrar of motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in ~~division (A)(1) of~~ section 3301.31 of the Revised Code.

(2) "School bus," as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the state board of education, is painted the color and displays the markings described in section 4511.77 of the Revised Code, and is equipped with amber and red visual signals meeting the requirements of section 4511.771 of the Revised Code, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

SECTION 3.14. That the existing versions of sections 307.93, 2152.19, 2301.02, 2301.03, 2743.191, 2743.51, 2929.38, 4506.14, 4506.15, 4506.16, 4506.20, 4511.33, 4511.62, 4511.63, and 4511.75 of the Revised Code that are scheduled to take effect January 1, 2004, are hereby repealed.

SECTION 3.15. Sections 3.13 and 3.14 of this act take effect January 1, 2004, except section 4511.75 of the Revised Code, as amended in those sections of this act, takes effect July 1, 2004. The amendment of section 4511.75 of the Revised Code by those sections of this act is not intended to supersede the amendment of the version of section 4511.75 of the Revised Code that is scheduled to take effect January 1, 2004.

SECTION 3.16. That the version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly, be amended to read as follows:

Sec. 5739.033. The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the ~~situs~~ sourcing location of the sale as determined under this section or, if applicable, under division (C) of section 5739.031 or section 5739.034 of the Revised Code. This section

applies only to a vendor's or seller's obligation to collect and remit sales taxes under section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code. This section does not affect the obligation of a consumer to remit use taxes on the storage, use, or other consumption of tangible personal property or on the benefit realized of any service provided, to the jurisdiction of that storage, use, or consumption, or benefit realized.

(A) Except for sales, other than leases, of titled motor vehicles, titled watercraft, or titled outboard motors as provided in section 5741.05 of the Revised Code, or as otherwise provided in this section and section 5739.034 of the Revised Code, ~~the situs of all sales is the vendor's place of business.~~ shall be sourced as follows:

(1) If the consumer or ~~the consumer's~~ a donee designated by the consumer receives tangible personal property or a service at a vendor's place of business ~~of the vendor~~, ~~the situs of the sale is~~ shall be sourced to that place of business.

(2) When the tangible personal property or service is not received at a vendor's place of business, ~~the situs of the sale is~~ shall be sourced to the location known to the vendor where the consumer or ~~a~~ the donee designated by the consumer receives the tangible personal property or service, including the location indicated by instructions for delivery to the consumer or the consumer's donee, ~~known to the vendor.~~

(3) If divisions (A)(1) and (2) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer that is available from the vendor's business records ~~of the vendor~~ that are maintained in the ordinary course of the vendor's business, when use of that address does not constitute bad faith.

(4) If divisions (A)(1), (2), and (3) of this section do not apply, ~~the situs of the sale is~~ shall be sourced to the location indicated by an address for the consumer obtained during the consummation of the sale, including the address associated with the consumer's payment instrument, if no other address is available, when use of that address does not constitute bad faith.

(5) If divisions (A)(1), (2), (3), and (4) of this section do not apply, including in the circumstance where the vendor is without sufficient information to apply any of those divisions, ~~the situs of the sale is~~ shall be sourced to the address from which tangible personal property was shipped, or from which the service was provided, disregarding any location that merely provided the electronic transfer of the property sold or service provided.

(6) As used in division (A) of this section, "receive" means taking

possession of tangible personal property or making first use of a service. "Receive" does not include possession by a shipping company on behalf of a consumer.

(B)(1) Notwithstanding divisions (A)(1) to (5) of this section, a ~~manufacturer or other~~ consumer that is not a holder of a direct payment permit granted under section 5739.031 of the Revised Code, that purchases ~~tangible personal property~~ computer software delivered electronically or a service for use in business, and that knows at the time of purchase that ~~the property~~ such software or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the vendor in conjunction with its purchase a multiple points of use exemption form prescribed by the tax commissioner disclosing this fact. On receipt of the multiple points of use exemption form, the vendor is relieved of its obligation to collect, pay, or remit the tax due, and the consumer must ~~collect, pay, or remit~~ the tax directly to the state.

(2) A consumer that delivers such form to a vendor may use any reasonable, consistent, and uniform method of apportioning the tax due on the ~~tangible personal property~~ computer software delivered electronically or service for use in business that is supported by the consumer's business records as they existed at the time of the sale.

(3) The multiple points of use exemption form shall remain in effect for all future sales by the vendor to the consumer until it is revoked in writing by the consumer, except as to the consumer's specific apportionment of a subsequent sale under division (B)(2) of this section and the facts existing at the time of the sale.

(C) A person who holds a direct payment permit issued under section 5739.031 of the Revised Code is not required to deliver a multiple points of use exemption form to a vendor. But such permit holder shall comply with division (B)(2) of this section in apportioning the tax due on ~~tangible personal property~~ computer software delivered electronically or a service used in business that will be concurrently available for use in more than one taxing jurisdiction.

~~(D) Except as provided in division (F) of this section:~~

~~(1) If the vendor provides a service specified in division (B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs of the sale is the location of the telephone number or account as reflected in the records of the vendor.~~

~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated~~ (1) Notwithstanding divisions (A)(1) to (5) of this section, the purchaser of direct mail that is not a holder

of a direct payment permit shall provide to the vendor in conjunction with the purchase either a direct mail form prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of a direct mail form, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay that tax on a direct pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the vendor to the purchaser until it is revoked in writing.

(3) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the purchaser.

(4) If the purchaser of direct mail does not have a direct payment permit and does not provide the vendor with either a direct mail form or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a purchaser's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a purchaser of direct mail provides the vendor with documentation of direct payment authority, the purchaser shall not be required to provide a direct mail form or delivery information to the vendor.

(E) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is shall be sourced to the location where the lodging is located.

(F) ~~Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address (1) As used in this division and division (G) of this section, "transportation equipment" means any of the following:~~

(a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(b) Trucks and truck-tractors with a gross vehicle weight rating of greater than ten thousand pounds, trailers, semi-trailers, or passenger buses

that are registered through the international registration plan and are operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(c) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate or foreign commerce.

(d) Containers designed for use on and component parts attached to or secured on the items set forth in division (F)(1)(a), (b), or (c) of this section.

(2) A sale, lease, or rental of transportation equipment shall be sourced pursuant to division (A) of this section.

(G)(1) A lease or rental of tangible personal property that does not require recurring periodic payments shall be sourced pursuant to division (A) of this section.

(2) A lease or rental of tangible personal property that requires recurring periodic payments shall be sourced as follows:

(a) In the case of a motor vehicle, other than a motor vehicle that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter used for titling the motor vehicle pursuant to section 4505.06 of the Revised Code at the time the lease or rental is consummated.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.

(b) In the case of an aircraft, other than an aircraft that is transportation equipment, such lease or rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the primary property location at the time the lease or rental is consummated.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.

(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or

rental shall be sourced to the primary property location as follows:

(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.

(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.

(d) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:

(i) For a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the lease or rental shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated.

(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of this section. Each subsequent installment shall be sourced to the primary property location for the period covered by the installment.

(3) As used in division (G) of this section, "primary property location" means an address for tangible personal property provided by the lessee or renter that is available to the lessor or owner from its records maintained in the ordinary course of business, when use of that address does not constitute bad faith.

SECTION 3.17. That the existing version of section 5739.033 of the Revised Code as it results from Am. Sub. S.B. 143 of the 124th General Assembly, as amended by H.B. 675 of the 124th General Assembly, is hereby repealed.

SECTION 3.18. The amendments in Sections 3.16 and 3.17 of this act provide for or are essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, those Sections are not subject to the referendum and go into effect January 1, 2004.

SECTION 3.19. Section 4723.063 of the Revised Code is hereby repealed,

effective December 31, 2013.

SECTION 3.20. That the version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 5101.28. (A) ~~The department of job and family services shall enter into written agreements with law enforcement agencies to exchange, obtain, or share~~ (1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department, or county agencies, and law enforcement agencies agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is either of the following:

~~(1) A a fugitive felon;~~

~~(2) Violating felon or violating~~ a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) ~~The~~ To the extent permitted by federal law, the department and county agencies shall provide information, except information directly related to the receipt of medical assistance or medical services, regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with

divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by ~~or~~ federal law to conduct an audit of or similar activity involving a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

(H) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section

2967.01 of the Revised Code.

SECTION 3.21. That the existing version of section 5101.28 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.22. Sections 3.20 and 3.21 of this act shall take effect January 1, 2004.

SECTION 3.23. That the version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, be amended to read as follows:

Sec. 5743.45. (A) As used in this section, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapters 5728., 5735., 5739., 5741., and 5747. of the Revised Code and subject to division (C) of this section, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training commission and who is engaged in the enforcement of those chapters. A separate journal entry shall be entered for each employee to whom that power is delegated. Each journal entry shall be a matter of public record and shall be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke the commissioner's delegation by journal entry. No employee of the department shall divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, except as may be required by the commissioner or a court.

(C)(1) The tax commissioner shall not delegate any investigation powers to an employee of the department of taxation pursuant to division (B) of this section on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee

previously has been convicted of or has pleaded guilty to a felony.

(2)(a) The tax commissioner shall revoke the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The tax commissioner shall suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this section if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner shall revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner shall reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee under division (C)(2) of this section shall be made by journal entry pursuant to division (B) of this section. An employee to whom the delegation of investigation powers is reinstated under division (C)(2)(b) of this section shall not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Division (C) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

SECTION 3.24. That the existing version of section 5743.45 of the Revised Code that is scheduled to take effect January 1, 2004, is hereby repealed.

SECTION 3.25. Sections 3.23 and 3.24 of this act take effect January 1,

2004.

SECTION 3.26. Section 5111.161 of the Revised Code is hereby repealed, effective October 1, 2006.

SECTION 4. Except as otherwise provided, all appropriation items (AI) in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2004 and the amounts in the second column are for fiscal year 2005.

FNDAI	AI TITLE	APPROPRIATIONS

SECTION 5. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J8 889-601	CPA Education Assistance	\$	209,510	\$	209,510
4K9 889-609	Operating Expenses	\$	1,010,583	\$	1,055,578
TOTAL GSF General Services Fund					
Group		\$	1,220,093	\$	1,265,088
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,220,093	\$	1,265,088

SECTION 6. PAY ACCRUED LEAVE LIABILITY

Accrued Leave Liability Fund Group

806 995-666	Accrued Leave Fund	\$	70,783,792	\$	78,296,200
807 995-667	Disability Fund	\$	47,269,465	\$	50,098,308
TOTAL ALF Accrued Leave Liability					
Fund Group		\$	118,053,257	\$	128,394,508

Agency Fund Group

808 995-668	State Employee Health	\$	312,724,593	\$	371,450,611
	Benefit Fund				
809 995-669	Dependent Care Spending	\$	3,691,169	\$	4,060,286
	Account				
810 995-670	Life Insurance Investment	\$	1,925,110	\$	1,992,489
	Fund				
811 995-671	Parental Leave Benefit Fund	\$	4,350,302	\$	4,785,332
TOTAL AGY Agency Fund Group					
TOTAL ALL BUDGET FUND GROUPS					
		\$	440,744,431	\$	510,683,226

ACCRUED LEAVE LIABILITY FUND

The foregoing appropriation item 995-666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 806), pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

STATE EMPLOYEE DISABILITY LEAVE BENEFIT FUND

The foregoing appropriation item 995-667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

STATE EMPLOYEE HEALTH BENEFIT FUND

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

DEPENDENT CARE SPENDING ACCOUNT

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

LIFE INSURANCE INVESTMENT FUND

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

PARENTAL LEAVE BENEFIT FUND

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated.

SECTION 7. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF 745-401	Ohio Military Reserve	\$	14,889	\$	15,188
GRF 745-404	Air National Guard	\$	1,915,177	\$	1,939,762
GRF 745-409	Central Administration	\$	3,976,734	\$	3,899,590
GRF 745-499	Army National Guard	\$	3,987,516	\$	4,086,222
GRF 745-502	Ohio National Guard Unit	\$	100,953	\$	102,973
	Fund				

Am. Sub. H. B. No. 95

1847

TOTAL GRF General Revenue Fund	\$	9,995,269	\$	10,043,735
General Services Fund Group				
534 745-612 Armory Improvements	\$	534,304	\$	534,304
536 745-620 Camp Perry/Buckeye Inn Operations	\$	1,094,970	\$	1,094,970
537 745-604 ONG Maintenance	\$	219,826	\$	219,826
TOTAL GSF General Services Fund Group	\$	1,849,100	\$	1,849,100
Federal Special Revenue Fund Group				
3E8 745-628 Air National Guard Operations and Maintenance Agreement	\$	11,901,459	\$	12,174,760
3R8 745-603 Counter Drug Operations	\$	25,000	\$	25,000
3S0 745-602 Higher Ground Training	\$	10,937	\$	10,937
341 745-615 Air National Guard Base Security	\$	2,181,960	\$	2,312,877
342 745-616 Army National Guard Service Agreement	\$	8,109,221	\$	8,686,892
TOTAL FED Federal Special Revenue Fund Group	\$	22,228,577	\$	23,210,466
State Special Revenue Fund Group				
528 745-605 Marksmanship Activities	\$	66,078	\$	66,078
TOTAL SSR State Special Revenue Fund Group	\$	66,078	\$	66,078
TOTAL ALL BUDGET FUND GROUPS	\$	34,139,024	\$	35,169,379

SECTION 8. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund

GRF 100-402 Unemployment Compensation	\$	100,000	\$	100,000
GRF 100-405 Agency Audit Expenses	\$	350,000	\$	350,000
GRF 100-406 County & University Human Resources Services	\$	400,000	\$	400,000
GRF 100-410 Veterans' Records Conversion	\$	19,729	\$	47,123
GRF 100-417 MARCS	\$	900,000	\$	900,000
GRF 100-418 Digital Government	\$	3,446,645	\$	3,643,649
GRF 100-419 Network Security	\$	3,000,000	\$	1,000,000
GRF 100-421 OAKS Project Implementation	\$	450,000	\$	450,000
GRF 100-433 State of Ohio Computer Center	\$	4,936,073	\$	4,991,719
GRF 100-439 Equal Opportunity Certification Programs	\$	661,531	\$	661,531
GRF 100-447 OBA - Building Rent Payments	\$	105,675,000	\$	117,027,700
GRF 100-448 OBA - Building Operating Payments	\$	25,445,550	\$	26,003,250
GRF 100-449 DAS - Building Operating Payments	\$	4,264,675	\$	4,460,417
GRF 100-451 Minority Affairs	\$	50,000	\$	50,000
GRF 100-734 Major Maintenance - State Bldgs	\$	45,000	\$	45,000
GRF 102-321 Construction Compliance	\$	1,250,000	\$	1,250,000
GRF 130-321 State Agency Support Services	\$	2,778,000	\$	2,522,000

TOTAL GRF General Revenue Fund		\$	153,772,203	\$	163,902,389
General Services Fund Group					
112	100-616	Director's Office	\$	5,503,547	\$ 5,503,547
115	100-632	Central Service Agency	\$	431,176	\$ 448,574
117	100-644	General Services Division - Operating	\$	7,622,861	\$ 8,653,304
122	100-637	Fleet Management	\$	4,169,589	\$ 4,352,849
125	100-622	Human Resources Division - Operating	\$	21,489,800	\$ 21,764,800
127	100-627	Vehicle Liability Insurance	\$	3,363,894	\$ 3,344,644
128	100-620	Collective Bargaining	\$	3,410,952	\$ 3,410,952
130	100-606	Risk Management Reserve	\$	217,904	\$ 223,904
131	100-639	State Architect's Office	\$	6,510,117	\$ 6,473,867
132	100-631	DAS Building Management	\$	10,921,019	\$ 10,721,430
188	100-649	Equal Opportunity Division - Operating	\$	1,082,353	\$ 1,103,697
201	100-653	General Services Resale Merchandise	\$	1,533,000	\$ 1,553,000
210	100-612	State Printing	\$	6,160,200	\$ 6,674,421
4P3	100-603	Departmental MIS Services	\$	6,077,535	\$ 6,233,638
427	100-602	Investment Recovery	\$	4,023,473	\$ 3,953,216
5C2	100-605	MARCS Administration	\$	6,632,527	\$ 9,268,178
5C3	100-608	Skilled Trades	\$	1,840,327	\$ 1,905,655
5D7	100-621	Workforce Development	\$	12,000,000	\$ 12,000,000
5L7	100-610	Professional Development	\$	2,700,000	\$ 2,700,000
5V6	100-619	Employee Educational Development	\$	809,071	\$ 811,129
TOTAL GSF General Services Fund Group		\$	106,499,345	\$	111,100,805
Intragovernmental Service Fund Group					
133	100-607	Information Technology Fund	\$	100,987,526	\$ 102,272,838
4N6	100-617	Major IT Purchases	\$	15,452,006	\$ 10,617,166
TOTAL ISF Intragovernmental Service Fund Group		\$	116,439,532	\$	112,890,004
Agency Fund Group					
113	100-628	Unemployment Compensation Pass Through	\$	4,200,000	\$ 4,200,000
124	100-629	Payroll Deductions	\$	1,971,000,000	\$ 2,050,000,000
TOTAL AGY Agency Fund Group		\$	1,975,200,000	\$	2,054,200,000
Holding Account Redistribution Fund Group					
R08	100-646	General Services Refunds	\$	20,000	\$ 20,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	20,000	\$	20,000
TOTAL ALL BUDGET FUND GROUPS		\$	2,351,931,080	\$	2,442,113,198

SECTION 8.01. AGENCY AUDIT EXPENSES

The foregoing appropriation item 100-405, Agency Audit Expenses, shall be used for auditing expenses designated in division (A)(1) of section 117.13 of the Revised Code for those state agencies audited on a biennial basis.

SECTION 8.02. OHIO BUILDING AUTHORITY

The foregoing appropriation item 100-447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$222,702,700. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100-448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,448,800.

The payments to the Ohio Building Authority are for the purpose of paying the expenses of agencies that occupy space in the various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

SECTION 8.03. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2004 and 2005.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the

state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

SECTION 8.04. CENTRAL SERVICE AGENCY FUND

The Director of Budget and Management may transfer up to \$423,200 in fiscal year 2004 and up to \$427,700 in fiscal year 2005 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The Director of Budget and Management may transfer up to \$40,700 in fiscal year 2004 and up to \$41,200 in fiscal year 2005 from the State Medical Board Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 115). The appropriation item 100-632, Central Service Agency, shall be used to purchase the necessary equipment, products, and services to maintain a local area network for the professional licensing boards, and to support their licensing applications in fiscal years 2004 and 2005. The amount of the cash transfer is appropriated to appropriation item 100-632, Central Service Agency.

SECTION 8.05. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

SECTION 8.06. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund

(Fund 188). These charges shall be deposited to the credit of the State EEO Fund (Fund 188) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 8.07. MERCHANDISE FOR RESALE

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for resale, which is administered by the General Services Division. Deposits to the fund may comprise the cost of merchandise for resale and shipping fees.

SECTION 8.08. DEPARTMENTAL MIS

The foregoing appropriation item 100-603, Departmental MIS Services, may be used to pay operating expenses of management information systems activities in the Department of Administrative Services. The Department of Administrative Services shall establish charges for recovering the costs of management information systems activities. These charges shall be deposited to the credit of the Departmental MIS Services Fund (Fund 4P3).

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer up to \$1,000,000 of fiscal year 2004 appropriations and up to \$1,000,000 of fiscal year 2005 appropriations from appropriation item 100-603, Departmental MIS Services, to any Department of Administrative Services non-General Revenue Fund appropriation item. The appropriations transferred shall be used to make payments for management information systems services.

SECTION 8.09. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 427) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$1,958,155 in fiscal year 2004 and up to \$2,049,162 in fiscal year 2005

shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program pursuant to Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$2,221,029 in fiscal year 2004 and \$2,130,022 in fiscal year 2005 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds pursuant to division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated.

Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$2,811,197 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the General Services Fund (Fund 117) during the biennium beginning July 1, 2003, and ending June 30, 2005. The cash transferred to the General Services Fund shall be used to pay the operating expenses of the Competitive Sealed Proposal Program, to provide operating cash for the General Services Fund, and to provide operating cash for the newly created rate pools for Real Estate Leasing and Interior Design Services.

SECTION 8.10. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM

Notwithstanding division (B)(3) of section 4505.09 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, may transfer up to \$4,887,390 in fiscal year 2004 and \$1,000,000 in fiscal year 2005 from the Automated Title Processing System (Fund 849) to the Multi-Agency Radio Communications Systems Administration Fund (Fund 5C2). The cash transferred to the Multi-Agency Radio Communications Systems Administration Fund shall be used for the development of the MARCS system.

Effective with the implementation of the Multi-Agency Radio Communications System, the Director of Administrative Services shall

collect user fees from participants in the system. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communications System Steering Committee and the Director of Budget and Management, shall determine the amount of the fees and the manner by which the fees shall be collected. Such user charges shall comply with the applicable cost principles issued by the federal Office of Management and Budget. All moneys from user charges and fees shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communications System Administration Fund (Fund 5C2). All interest income derived from the investment of the fund shall accrue to the fund.

SECTION 8.11. WORKFORCE DEVELOPMENT FUND

There is hereby established in the state treasury the Workforce Development Fund (Fund 5D7). The foregoing appropriation item 100-621, Workforce Development, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be used to pay the costs of the Workforce Development Program, if any, as previously established by Article 37 of the contract between the State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 2000, and as modified by any successor labor contract between the State of Ohio and OCSEA/AFSCME. The program shall be administered in accordance with the contract. Revenues shall accrue to the fund as specified in the contract. The fund may be used to pay direct and indirect costs of the program that are attributable to staff, consultants, and service providers. All income derived from the investment of the fund shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated.

SECTION 8.12. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100-610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L7) pursuant to section 124.182 of the Revised Code.

SECTION 8.13. EMPLOYEE EDUCATIONAL DEVELOPMENT

There is hereby established in the state treasury the Employee

Educational Development Fund (Fund 5V6). The foregoing appropriation item 100-619, Employee Educational Development, shall be used to make payments from the fund. The fund shall be used to pay the costs of the administration of educational programs per existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association; National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to administration of the fund. The fund shall be administered in accordance with the applicable sections of the collective bargaining agreements between the State and the aforementioned unions. The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the educational programs. Receipts for these charges shall be deposited into the Employee Educational Development Fund. All income derived from the investment of the funds shall accrue to the fund.

If it is determined by the Director of Administrative Services that additional appropriation amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management increase such amounts. Such amounts are hereby appropriated with the approval of the Director of Budget and Management.

Upon the request of the Director of Administrative Services, the Director of Budget and Management shall transfer any cash balances attributable to educational programs per existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association; National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and the Ohio State Troopers Association, Units 1 and 15 from the Human Resources Services Fund (Fund 125) to the Employee Educational Development Fund (Fund 5V6).

SECTION 8.14. MAJOR IT PURCHASES

The Director of Administrative Services shall compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from appropriation item 100-607, Information Technology Fund; appropriation item 100-617, Major IT Purchases; and appropriation item CAP-837, Major IT Purchases, which is recovered by the Department of Administrative Services as part of the rates charged by the

Information Technology Fund (Fund 133) created in section 125.15 of the Revised Code. The Director of Budget and Management may transfer cash in an amount not to exceed the amount of amortization computed from the Information Technology Fund (Fund 133) to the Major IT Purchases Fund (Fund 4N6).

SECTION 8.15. INFORMATION TECHNOLOGY ASSESSMENT

The Director of Administrative Services, with the approval of the Director of Budget and Management, may establish an information technology assessment for the purpose of recovering the cost of selected infrastructure and statewide programs. Such assessment shall comply with applicable cost principles issued by the federal Office of Management and Budget. The information technology assessment shall be charged to all organized bodies, offices, or agencies established by the laws of the state for the exercise of any function of state government except for the General Assembly, any legislative agency, the Supreme Court, the other courts of record in Ohio, or any judicial agency, the Adjutant General, the Bureau of Workers' Compensation, and institutions administered by a board of trustees. Any state-entity exempted by this section may utilize the infrastructure or statewide program by participating in the information technology assessment. All charges for the information technology assessment shall be deposited to the credit of the Information Technology Fund (Fund 133) created in section 125.15 of the Revised Code.

SECTION 8.16. UNEMPLOYMENT COMPENSATION FUND

The foregoing appropriation item 100-628, Unemployment Compensation Pass Through, shall be used to make payments from the Unemployment Compensation Fund (Fund 113), pursuant to section 4141.241 of the Revised Code. If it is determined that additional amounts are necessary, such amounts are hereby appropriated.

SECTION 8.17. PAYROLL WITHHOLDING FUND

The foregoing appropriation item 100-629, Payroll Deductions, shall be used to make payments from the Payroll Withholding Fund (Fund 124). If it is determined by the Director of Budget and Management that additional appropriation amounts are necessary, such amounts are hereby appropriated.

SECTION 8.18. GENERAL SERVICES REFUNDS

The foregoing appropriation item 100-646, General Services Refunds, shall be used to hold bid guarantee and building plans and specifications deposits until they are refunded. The Director of Administrative Services may request that the Director of Budget and Management transfer cash received for the costs of providing the building plans and specifications to contractors from the General Services Refunds Fund to the State Architect's Office Fund (Fund 131). Prior to the transfer of cash, the Director of Administrative Services shall certify that such amounts are in excess of amounts required for refunding deposits and are directly related to costs of producing building plans and specifications. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 8.19. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100-447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the State Highway Safety Fund (Fund 036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 8.20. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

SECTION 8.21. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs in the General Services Fund (Fund 117) and the State Printing Fund (Fund 210).

SECTION 8.22. During the period beginning July 1, 2003, and ending June 30, 2005, and notwithstanding section 123.10 of the Revised Code, the Director of Administrative Services shall collect no commissions or fees in connection with any of the following:

(A) A lease to which the Department of Administrative Services is a party that is in effect on the effective date of this section;

(B) A lease for which negotiations have commenced between the Department and another party prior to July 1, 2003;

(C) A lease regarding which the Department did not inform all interested parties prior to negotiations that the Department would be requesting real estate commissions or fees.

SECTION 8.23. CENTRALIZED FLEET MANAGEMENT PROGRAM

Of the foregoing appropriation item 130-321, State Agency Support Services, \$378,000 in fiscal year 2004 and \$122,000 in fiscal year 2005 shall be used for the centralized fleet management program.

SECTION 8.24. ASSESSMENTS ON STATE AGENCIES, BOARDS, AND COMMISSIONS

For fiscal year 2004 and fiscal year 2005, the Director of Administrative Services shall not increase rates, charges, or fees for centralized services provided by the Department of Administrative Services and specified in Payroll Letter 824, effective July 17, 2002. This provision shall not apply to payroll deductions for employee health, vision, and dental benefits; employers' share of pension contributions; or amounts deducted for accrued leave or disability leave. Nor shall this provision apply to charges or deductions for programs operated by the Department of Administrative Services in accordance with any collective bargaining agreement.

The Director of Administrative Services shall not increase rates or charges assessed to state agencies, boards, and commissions for other centralized services provided by the General Services Division and in effect

as of June 30, 2003. However, the rate charged for mail services may be adjusted to account for increases in federal postage rates.

SECTION 9. AAM COMMISSION ON AFRICAN AMERICAN MALES

General Revenue Fund

GRF 036-100	Personal Services	\$	212,492	\$	218,610
GRF 036-200	Maintenance	\$	50,180	\$	50,180
GRF 036-300	Equipment	\$	4,000	\$	4,000
GRF 036-501	CAAM Awards and Scholarships	\$	8,143	\$	765
GRF 036-502	Community Projects	\$	25,185	\$	26,445
TOTAL GRF General Revenue Fund		\$	300,000	\$	300,000

State Special Revenue Fund Group

4H3 036-601	Commission on African American Males - Gifts/Grants	\$	10,000	\$	10,000
TOTAL SSR State Special Revenue Fund Group		\$	10,000	\$	10,000
TOTAL ALL BUDGET FUND GROUPS		\$	310,000	\$	310,000

COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW

Annually, not later than the thirty-first day of December, the Commission on African American Males shall internally prepare and submit to the chairperson and ranking minority member of the Human Services Subcommittee of the Finance and Appropriations Committee of the House of Representatives a report that demonstrates the progress that has been made toward meeting the Commission's mission statement.

From the foregoing appropriations, the Commission on African American Males shall provide in each fiscal year \$50,000 to the Cincinnati State Community College to purchase books and equipment in order to furnish the Cincinnati State William F. Bowen Room that will honor Ohio's African-American legislators.

SECTION 10. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029-321	Operating Expenses	\$	363,769	\$	379,769
TOTAL GRF General Revenue Fund		\$	363,769	\$	379,769
TOTAL ALL BUDGET FUND GROUPS		\$	363,769	\$	379,769

OPERATING

The Chief Administrative Officer of the House of Representatives and the Clerk of the Senate shall determine, by mutual agreement, which of them shall act as fiscal agent for the Joint Committee on Agency Rule

Review.

SECTION 11. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490-321	Operating Expenses	\$	2,308,867	\$	2,308,867
GRF 490-403	PASSPORT	\$	81,008,877	\$	103,746,032
GRF 490-405	Golden Buckeye Card	\$	297,628	\$	297,628
GRF 490-406	Senior Olympics	\$	16,636	\$	16,636
GRF 490-409	Ohio Community Service Council Operations	\$	228,048	\$	228,048
GRF 490-410	Long-Term Care Ombudsman	\$	729,685	\$	729,685
GRF 490-411	Senior Community Services	\$	11,271,431	\$	11,271,431
GRF 490-412	Residential State Supplement	\$	9,960,356	\$	9,960,356
GRF 490-414	Alzheimers Respite	\$	4,346,689	\$	4,346,689
GRF 490-416	Transportation for Elderly	\$	138,369	\$	138,369
GRF 490-419	Prescription Drug Discount Program	\$	169,986	\$	169,986
GRF 490-506	Senior Volunteers	\$	375,471	\$	375,471
TOTAL GRF General Revenue Fund		\$	110,852,043	\$	133,589,198

General Services Fund Group

480 490-606	Senior Citizens Services Special Events	\$	372,677	\$	372,677
5T4 490-615	Aging Network Support	\$	252,830	\$	252,830
TOTAL GSF General Services Fund Group		\$	625,507	\$	625,507

Federal Special Revenue Fund Group

3C4 490-607	PASSPORT	\$	142,926,054	\$	151,954,474
3M3 490-611	Federal Aging Nutrition	\$	25,541,095	\$	26,818,149
3M4 490-612	Federal Supportive Services	\$	26,305,294	\$	27,094,453
3R7 490-617	Ohio Community Service Council Programs	\$	8,951,150	\$	8,905,150
322 490-618	Older Americans Support Services	\$	12,904,949	\$	13,298,626
TOTAL FED Federal Special Revenue Fund Group		\$	216,628,542	\$	228,070,852

State Special Revenue Fund Group

4C4 490-609	Regional Long-Term Care Ombudsman Program	\$	829,321	\$	829,321
4J4 490-610	PASSPORT/Residential State Supplement	\$	33,268,052	\$	33,263,984
4U9 490-602	PASSPORT Fund	\$	5,500,000	\$	5,500,000
5W1 490-616	Resident Services Coordinator Program	\$	250,000	\$	250,000
624 490-604	OCSC Community Support	\$	2,500	\$	2,500
TOTAL SSR State Special Revenue Fund Group		\$	39,849,873	\$	39,845,805
TOTAL ALL BUDGET FUND GROUPS		\$	367,955,965	\$	402,131,362

SECTION 11.01. PRE-ADMISSION REVIEW FOR NURSING

FACILITY ADMISSION

Pursuant to sections 5101.751 and 5101.754 of the Revised Code and an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under sections 5101.75 and 5111.204 of the Revised Code. Of the foregoing appropriation item 490-403, PASSPORT, the Department of Aging may use not more than \$2,511,309 in fiscal year 2004 and \$2,574,092 in fiscal year 2005 to perform the assessments for persons not eligible for Medicaid in accordance with the department's interagency agreement with the Department of Job and Family Services and to assist individuals in planning for their long-term health care needs.

SECTION 11.02. PASSPORT

Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may be used to assess clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules under section 111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver-funded PASSPORT Home Care Program. Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in appropriation item 490-610, PASSPORT/Residential State Supplement, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT program.

The foregoing appropriation item 490-607, PASSPORT, shall be used to provide the federal matching share for all PASSPORT program costs determined by the Department of Job and Family Services to be eligible for Medicaid reimbursement.

SENIOR COMMUNITY SERVICES

Of the foregoing appropriation item 490-411, Senior Community Services, \$300,000 shall be allocated to the Visiting Nurses Association of Cleveland.

The remainder of the foregoing appropriation item 490-411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with block grant funds, including, where possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMERS RESPITE

The foregoing appropriation item 490-414, Alzheimers Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

TRANSPORTATION FOR ELDERLY

The foregoing appropriation item 490-416, Transportation for Elderly, shall be used for noncapital expenses related to transportation services for the elderly that provide access to such things as healthcare services, congregate meals, socialization programs, and grocery shopping. The funds pass through and shall be administered by the Area Agencies on Aging. The appropriation shall be allocated to the following agencies:

(A) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Vocational Services/Cincinnati;

(B) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Jewish Community Center of Cleveland;

(C) Up to \$34,912 in fiscal year 2004 and up to \$34,039 in fiscal year 2005 to the Wexner Heritage Village/Columbus;

(D) Up to \$15,469 in fiscal year 2004 and up to \$15,082 in fiscal year 2005 to the Jewish Family Services of Dayton;

(E) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center of Akron;

(F) Up to \$3,832 in fiscal year 2004 and up to \$3,736 in fiscal year 2005 to the Jewish Community Center/Youngstown;

(G) Up to \$2,270 in fiscal year 2004 and up to \$2,214 in fiscal year 2005 to the Jewish Community Center/Canton;

(H) Up to \$7,805 in fiscal year 2004 and up to \$7,610 in fiscal year 2005 to the Jewish Community Center/Sylvania.

Agencies receiving funding from appropriation item 490-416, Transportation for Elderly, shall coordinate services with other local service agencies.

RESIDENTIAL STATE SUPPLEMENT

Under the Residential State Supplement Program, the amount used to determine whether a resident is eligible for payment and for determining the amount per month the eligible resident will receive shall be as follows:

(A) \$900 for a residential care facility, as defined in section 3721.01 of the Revised Code;

(B) \$900 for an adult group home, as defined in Chapter 3722. of the Revised Code;

(C) \$800 for an adult foster home, as defined in Chapter 173. of the Revised Code;

(D) \$800 for an adult family home, as defined in Chapter 3722. of the Revised Code;

(E) \$800 for an adult community alternative home, as defined in Chapter 3724. of the Revised Code;

(F) \$800 for an adult residential facility, as defined in Chapter 5119. of the Revised Code;

(G) \$600 for adult community mental health housing services, as defined in division (B)(5) of section 173.35 of the Revised Code.

The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.

TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS

The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.

LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.

PRESCRIPTION DRUG DISCOUNT PROGRAM

The foregoing appropriation item 490-419, Prescription Drug Discount Program, shall be used to administer a prescription drug discount program.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAMS

The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Programs, shall be used solely to pay the costs of operating the

regional long-term care ombudsman programs.

PASSPORT/RESIDENTIAL STATE SUPPLEMENT

Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to \$2,835,000 each fiscal year may be used to fund the Residential State Supplement Program. The remaining available funds shall be used to fund the PASSPORT program.

TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL SUPPORTIVE SERVICES, AND OLDER AMERICANS SUPPORT SERVICES

Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Supportive Services, and 490-618, Older Americans Support Services, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report such transfers to the Controlling Board at the next regularly scheduled meeting of the board.

OHIO COMMUNITY SERVICE COUNCIL

The foregoing appropriation items 490-409, Ohio Community Service Council Operations, and 490-617, Ohio Community Service Council Programs, shall be used in accordance with section 121.40 of the Revised Code.

SECTION 12. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700-321	Operating Expenses	\$	2,737,665	\$	2,771,628
GRF 700-401	Animal Disease Control	\$	4,121,815	\$	4,121,815
GRF 700-402	Amusement Ride Safety	\$	278,767	\$	275,943
GRF 700-403	Dairy Division	\$	1,494,597	\$	1,494,153
GRF 700-404	Ohio Proud	\$	197,727	\$	197,229
GRF 700-405	Animal Damage Control	\$	94,954	\$	94,954
GRF 700-406	Consumer Analytical Lab	\$	819,281	\$	872,241
GRF 700-407	Food Safety	\$	999,042	\$	999,042
GRF 700-409	Farmland Preservation	\$	256,993	\$	256,993
GRF 700-410	Plant Industry	\$	1,109,867	\$	1,107,677
GRF 700-411	International Trade and Market Development	\$	621,049	\$	517,524
GRF 700-412	Weights and Measures	\$	914,137	\$	909,120
GRF 700-413	Gypsy Moth Prevention	\$	546,118	\$	576,299
GRF 700-414	Concentrated Animal Feeding Facilities Advisory Committee	\$	16,521	\$	16,086
GRF 700-415	Poultry Inspection	\$	270,645	\$	267,743
GRF 700-418	Livestock Regulation Program	\$	1,306,911	\$	1,306,911

Am. Sub. H. B. No. 95

1864

GRF 700-424	Livestock Testing and Inspections	\$	123,347	\$	123,347
GRF 700-499	Meat Inspection Program - State Share	\$	4,651,611	\$	4,696,889
GRF 700-501	County Agricultural Societies	\$	381,091	\$	381,091
TOTAL GRF General Revenue Fund		\$	20,942,138	\$	20,986,685
Federal Special Revenue Fund Group					
3J4 700-607	Indirect Cost	\$	938,785	\$	949,877
3R2 700-614	Federal Plant Industry	\$	1,400,000	\$	1,425,000
326 700-618	Meat Inspection Service - Federal Share	\$	4,876,904	\$	4,951,291
336 700-617	Ohio Farm Loan Revolving Fund	\$	181,774	\$	181,774
382 700-601	Cooperative Contracts	\$	2,400,000	\$	2,500,000
TOTAL FED Federal Special Revenue Fund Group		\$	9,797,463	\$	10,007,942
State Special Revenue Fund Group					
4C9 700-605	Feed, Fertilizer, and Lime Inspection	\$	986,765	\$	1,008,541
4D2 700-609	Auction Education	\$	30,476	\$	30,476
4E4 700-606	Utility Radiological Safety	\$	73,059	\$	73,059
4P7 700-610	Food Safety Inspection	\$	575,797	\$	582,711
4R0 700-636	Ohio Proud Marketing	\$	40,300	\$	38,300
4R2 700-637	Dairy Inspection Fund	\$	1,157,603	\$	1,184,183
4T6 700-611	Poultry and Meat Inspection	\$	46,162	\$	47,294
4T7 700-613	International Trade and Market Development Rotary	\$	41,238	\$	42,000
4V5 700-615	Animal Industry Lab Fees	\$	711,944	\$	711,944
494 700-612	Agricultural Commodity Marketing Program	\$	170,077	\$	170,220
496 700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,099
497 700-627	Commodity Handlers Regulatory Program	\$	664,118	\$	664,118
498 700-628	Commodity Indemnity Fund	\$	250,000	\$	250,000
5B8 700-629	Auctioneers	\$	291,672	\$	365,390
5H2 700-608	Metrology Lab	\$	105,879	\$	108,849
5L8 700-604	Livestock Management Program	\$	250,000	\$	250,000
578 700-620	Ride Inspection Fees	\$	497,000	\$	497,000
579 700-630	Scale Certification	\$	168,785	\$	171,677
652 700-634	Laboratory Services	\$	1,043,444	\$	1,074,447
669 700-635	Pesticide Program	\$	2,243,232	\$	2,243,232
TOTAL SSR State Special Revenue Fund Group		\$	10,418,650	\$	10,584,540
Clean Ohio Fund Group					
057 700-632	Clean Ohio Agricultural Easement	\$	149,000	\$	149,000
TOTAL CLR Clean Ohio Fund Group		\$	149,000	\$	149,000
Holding Account Redistribution Fund Group					
XXX 700-XXX	Farm Service Electronic Filing	\$	60,000	\$	60,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	60,000	\$	60,000

TOTAL ALL BUDGET FUND GROUPS \$ 41,367,251 \$ 41,788,167

ANIMAL DAMAGE CONTROL

Of the foregoing appropriation item 700-405, Animal Damage Control, \$50,000 shall be used in each fiscal year for coyote and black vulture indemnification.

INTERNATIONAL TRADE AND MARKET DEVELOPMENT

Of the foregoing appropriation item 700-411, International Trade and Market Development, \$100,000 shall be used in fiscal year 2004 for the Ohio-Israel Agricultural Initiative.

FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to \$1,500,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700-632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

FARM SERVICE ELECTRONIC FILING

As soon as possible on or after July 1, 2003, the Director of Budget and Management shall make a one-time cash transfer of \$60,000 from Fund 382, Cooperative Contracts, to Fund XXX, Farm Service Electronic Filing Fund, in fiscal year 2004. The Farm Service Electronic Filing Fund shall be administered by the Department of Agriculture.

SECTION 13. AIR QUALITY DEVELOPMENT AUTHORITY

General Revenue Fund

GRF 898-402	Coal Development Office	\$	588,041	\$	599,802
GRF 898-901	Coal R&D Gen Obligation	\$	7,231,200	\$	9,185,100
	Debt Service				
TOTAL GRF General Revenue Fund		\$	7,819,241	\$	9,784,902

Agency Fund Group

4Z9 898-602	Small Business Ombudsman	\$	233,482	\$	233,482
5A0 898-603	Small Business Assistance	\$	197,463	\$	197,463
570 898-601	Operating Expenses	\$	243,383	\$	243,383

Am. Sub. H. B. No. 95

1866

TOTAL AGY Agency Fund Group	\$	674,328	\$	674,328
Coal Research/Development Fund				
046 898-604 Coal Research and Development Fund	\$	13,168,357	\$	13,168,357
TOTAL 046 Coal Research/Development Fund	\$	13,168,357	\$	13,168,357
TOTAL ALL BUDGET FUND GROUPS	\$	21,661,926	\$	23,627,587

COAL DEVELOPMENT OFFICE

The foregoing appropriation item GRF 898-402, Coal Development Office, shall be used for the administrative costs of the Coal Development Office.

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item GRF 898-901, Coal R & D Gen Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made under sections 151.01 and 151.07 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SCIENCE AND TECHNOLOGY COLLABORATION

The Air Quality Development Authority shall work in close collaboration with the Department of Development, the Board of Regents, and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for:

- (1) The scientific merit of activities supported by the program;

(2) The relevance of the program's activities to commercial opportunities in the private sector;

(3) The private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and

(4) The ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds.

All programs listed in the preceding paragraph shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

SECTION 14. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund

GRF 038-321	Operating Expenses	\$	1,200,293	\$	1,200,293
GRF 038-401	Treatment Services	\$	36,762,306	\$	36,762,306
GRF 038-404	Prevention Services	\$	1,055,033	\$	1,055,033
TOTAL GRF General Revenue Fund		\$	39,017,632	\$	39,017,632

General Services Fund

5T9 038-616	Problem Gambling Services	\$	60,000	\$	60,000
TOTAL GSF General Services Fund Group		\$	60,000	\$	60,000

Federal Special Revenue Fund Group

3G3 038-603	Drug Free Schools	\$	3,500,000	\$	3,500,000
3G4 038-614	Substance Abuse Block Grant	\$	67,335,499	\$	68,079,223
3H8 038-609	Demonstration Grants	\$	7,093,075	\$	7,093,075
3J8 038-610	Medicaid	\$	30,000,000	\$	30,000,000
3N8 038-611	Administrative Reimbursement	\$	500,000	\$	500,000

TOTAL FED Federal Special Revenue Fund Group		\$	108,428,574	\$	109,172,298

State Special Revenue Fund Group

475 038-621	Statewide Treatment and Prevention	\$	15,191,182	\$	15,191,182
5P1 038-615	Credentialing	\$	225,000	\$	0
689 038-604	Education and Conferences	\$	280,000	\$	280,000
TOTAL SSR State Special Revenue Fund Group		\$	15,696,182	\$	15,471,182
TOTAL ALL BUDGET FUND GROUPS		\$	163,202,388	\$	163,721,112

TREATMENT SERVICES

Of the foregoing appropriation item 038-401, Treatment Services, not

more than \$8,190,000 shall be used by the Department of Alcohol and Drug Addiction Services for program grants for priority populations in each year of the biennium.

AM. SUB. H.B. 484 OF THE 122nd GENERAL ASSEMBLY

Of the foregoing appropriation item 038-401, Treatment Services, \$4 million in each fiscal year shall be allocated for services to families, adults, and adolescents pursuant to the requirements of Am. Sub. H.B. 484 of the 122nd General Assembly.

TALBERT HOUSE

Of the foregoing appropriation item 038-401, Treatment Services, \$200,000 in each fiscal year shall be allocated to establish a Talbert House Facility in Butler County. These funds are in addition to any other funds for which the Talbert House facility and Butler County are eligible to receive from the Department of Alcohol and Drug Addiction Services.

SERVICES FOR TANF-ELIGIBLE INDIVIDUALS

Of the foregoing appropriation item 038-401, Treatment Services, \$5 million each year shall be used to fund TANF-eligible expenditures for substance abuse prevention and treatment services to children, or their families, whose income is at or below 200 per cent of the official income poverty guideline. The Director of Alcohol and Drug Addiction Services and the Director of Job and Family Services shall develop operating and reporting guidelines for these programs.

THERAPEUTIC COMMUNITIES

Of the foregoing appropriation item 038-401, Treatment Services, \$750,000 shall be used in each fiscal year for expansion of the Therapeutic Communities Program in the Department of Rehabilitation and Correction.

PARENT AWARENESS TASK FORCE

The Parent Awareness Task Force shall study ways to engage more parents in activities, coalitions, and educational programs in Ohio relating to alcohol and other drug abuse prevention. Of the foregoing appropriation item 038-404, Prevention Services, \$30,000 in each fiscal year may be used to support the functions of the Parent Awareness Task Force.

COMMUNITY CAPITAL ASSISTANCE FUNDS

Any proceeds from the repayment of ODADAS community capital assistance funds from St. Anthony's Villa shall be deposited into Fund 475, appropriation item 038-621, Statewide Treatment and Prevention, and such amounts are hereby appropriated for distribution to other community capital assistance projects in Lucas County.

SECTION 15. AMB AMBULANCE LICENSING BOARD

General Services Fund Group

4N1 915-601 Operating Expenses	\$	272,340	\$	284,054
TOTAL GSF General Services Fund Group	\$	272,340	\$	284,054
TOTAL ALL BUDGET FUND GROUPS	\$	272,340	\$	284,054

SECTION 16. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS**General Services Fund Group**

4K9 891-609 Operating Expenses	\$	480,574	\$	479,574
TOTAL GSF General Services Fund Group	\$	480,574	\$	479,574
TOTAL ALL BUDGET FUND GROUPS	\$	480,574	\$	479,574

SECTION 17. ART OHIO ARTS COUNCIL**General Revenue Fund**

GRF 370-100 Personal Services	\$	1,896,848	\$	1,892,879
GRF 370-200 Maintenance	\$	547,404	\$	532,998
GRF 370-300 Equipment	\$	227,788	\$	27,056
GRF 370-502 Program Subsidies	\$	9,896,320	\$	9,648,912
TOTAL GRF General Revenue Fund	\$	12,568,360	\$	12,101,845

General Services Fund Group

4B7 370-603 Per Cent for Art Acquisitions	\$	86,366	\$	86,366
460 370-602 Operations	\$	429,325	\$	429,325
TOTAL GSF General Services Fund Group	\$	515,691	\$	515,691

Federal Special Revenue Fund Group

314 370-601 Federal Programs	\$	1,657,300	\$	1,657,300
TOTAL FED Federal Special Revenue Fund Group	\$	1,657,300	\$	1,657,300
TOTAL ALL BUDGET FUND GROUPS	\$	14,741,351	\$	14,274,836

EQUIPMENT

Of the foregoing appropriation item 370-300, Equipment, \$200,000 in fiscal year 2004 shall be used for computer upgrades.

PROGRAM SUBSIDIES

A museum is not eligible to receive funds from appropriation item 370-502, Program Subsidies, if \$8,000,000 or more in capital appropriations were appropriated by the state for the museum between January 1, 1986, and December 31, 2002.

PER CENT FOR ART ACQUISITIONS

The unencumbered balance remaining from prior projects of appropriation item 370-603, Per Cent for Art Acquisitions, shall be used by the Ohio Arts Council to pay for start-up costs in connection with the selection of artists of new Per Cent for Art projects.

SECTION 18. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION

General Revenue Fund

GRF 371-321	Operating Expenses	\$	317,451	\$	317,451
GRF 371-401	Lease Rental Payments	\$	36,283,800	\$	37,617,700
TOTAL GRF General Revenue Fund		\$	36,601,251	\$	37,935,151

State Special Revenue Fund Group

4T8 371-601	Riffe Theatre Equipment Maintenance	\$	23,194	\$	23,194
4T8 371-603	Project Administration	\$	1,035,377	\$	1,074,339
TOTAL SSR State Special Revenue Group		\$	1,058,571	\$	1,097,533
TOTAL ALL BUDGET FUND GROUPS		\$	37,659,822	\$	39,032,684

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 371-401, Lease Rental Payments, shall be used by the Arts and Sports Facilities Commission for payments to the Ohio Building Authority for the period from July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$73,901,500. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 371-603, Project Administration, shall be used by the Ohio Arts and Sports Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3383. of the Revised Code.

Within ten days after the effective date of this section, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Arts Facilities Building Fund (Fund 030) and the Sports Facilities Building Fund (Fund 024) to the Arts and Sports Facilities Commission Administration Fund (Fund 4T8). The total amount transferred in fiscal year 2004 and fiscal year 2005 may not exceed the total biennial appropriation of \$2,109,716 in appropriation item 371-603, Project Administration.

By July 10, 2004, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Arts Facilities Building Fund (Fund 030) and the Sports Facilities Building Fund (Fund 024) to the Arts and Sports Commission Administration Fund (Fund 4T8). The total amount transferred in fiscal year 2004 and in fiscal year 2005 may not exceed the total biennial appropriation of \$2,109,716 in appropriation item 371-603, Project

Administration.

SECTION 19. ATH ATHLETIC COMMISSION

General Services Fund Group

4K9 175-609	Athletic Commission - Operating	\$	188,250	\$	200,205

TOTAL GSF General Services Fund Group	\$	188,250	\$	200,205

TOTAL ALL BUDGET FUND GROUPS	\$	188,250	\$	200,205

TRANSFER OF CASH BALANCE FROM FUND 5R1

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Athlete Agents Registration Fund (Fund 5R1) that was created in former section 4771.22 of the Revised Code to the Occupational Licensing and Regulatory Fund (Fund 4K9). The director shall cancel any existing encumbrances against appropriation item 175-602, Athlete Agents Registration (Fund 5R1), and reestablish them against appropriation item 175-609, Athletic Commission - Operating (Fund 4K9). The amounts of the reestablished encumbrances are hereby appropriated.

SECTION 20. AGO ATTORNEY GENERAL

General Revenue Fund

GRF 055-321	Operating Expenses	\$	53,885,937	\$	53,885,937

GRF 055-406	Community Police Match and Law Enforcement Assistance	\$	2,258,843	\$	2,258,843

GRF 055-411	County Sheriffs	\$	731,879	\$	736,929

GRF 055-415	County Prosecutors	\$	717,182	\$	723,490

TOTAL GRF General Revenue Fund	\$	57,593,841	\$	57,605,199

General Services Fund Group

106 055-612	General Reimbursement	\$	18,870,196	\$	18,870,196

107 055-624	Employment Services	\$	984,396	\$	984,396

195 055-660	Workers' Compensation Section	\$	7,769,628	\$	7,769,628

4Y7 055-608	Title Defect Rescission	\$	570,623	\$	570,623

4Z2 055-609	BCI Asset Forfeiture and Cost Reimbursement	\$	332,109	\$	332,109

418 055-615	Charitable Foundations	\$	1,899,066	\$	1,899,066

420 055-603	Attorney General Antitrust	\$	446,449	\$	446,449

421 055-617	Police Officers' Training Academy Fee	\$	1,193,213	\$	1,193,213

5A9 055-618	Telemarketing Fraud Enforcement	\$	52,378	\$	52,378

590 055-633	Peace Officer Private Security Fund	\$	98,370	\$	98,370

629 055-636	Corrupt Activity Investigation and Prosecution	\$	108,230	\$	108,230

631 055-637	Consumer Protection	\$	1,373,832	\$	1,373,832

Enforcement			
TOTAL GSF General Services Fund			
Group	\$	33,698,490	\$ 33,698,490
Federal Special Revenue Fund Group			
3E5 055-638 Anti-Drug Abuse	\$	1,923,400	\$ 1,981,102
3R6 055-613 Attorney General Federal Funds	\$	3,730,191	\$ 3,842,097
306 055-620 Medicaid Fraud Control	\$	2,882,970	\$ 2,969,459
381 055-611 Civil Rights Legal Service	\$	390,815	\$ 390,815
383 055-634 Crime Victims Assistance	\$	17,561,250	\$ 18,439,313
TOTAL FED Federal Special Revenue Fund Group	\$	26,488,626	\$ 27,622,786
State Special Revenue Fund Group			
4L6 055-606 DARE	\$	3,927,962	\$ 3,927,962
402 055-616 Victims of Crime	\$	27,933,893	\$ 27,933,893
417 055-621 Domestic Violence Shelter	\$	14,492	\$ 14,492
419 055-623 Claims Section	\$	13,649,954	\$ 13,649,954
659 055-641 Solid and Hazardous Waste Background Investigations	\$	621,159	\$ 621,159
TOTAL SSR State Special Revenue Fund Group	\$	46,147,460	\$ 46,147,460
Holding Account Redistribution Fund Group			
R03 055-629 Bingo License Refunds	\$	5,200	\$ 5,200
R04 055-631 General Holding Account	\$	275,000	\$ 275,000
R05 055-632 Antitrust Settlements	\$	10,400	\$ 10,400
R18 055-630 Consumer Frauds	\$	750,000	\$ 750,000
R42 055-601 Organized Crime Commission Account	\$	200,000	\$ 200,000
TOTAL 090 Holding Account Redistribution Fund Group	\$	1,240,600	\$ 1,240,600
TOTAL ALL BUDGET FUND GROUPS	\$	165,169,017	\$ 166,314,535

WORKERS' COMPENSATION SECTION

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. Such advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION

The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines,

and penalties credited to the Corrupt Activity Investigation and Prosecution Fund, which is created in division (D)(1)(b) of section 2923.35 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

COMMUNITY POLICE MATCH AND LAW ENFORCEMENT ASSISTANCE

In fiscal years 2004 and 2005, the Attorney General's Office may request the Director of Budget and Management to transfer appropriation authority from appropriation item 055-321, Operating Expenses, to appropriation item 055-406, Community Police Match and Law Enforcement Assistance. The Director of Budget and Management shall then transfer appropriation authority from appropriation item 055-321, Operating Expenses, to appropriation item 055-406, Community Police Match and Law Enforcement Assistance. Moneys transferred to appropriation item 055-406, Community Police Match and Law Enforcement Assistance, shall be used to pay operating expenses and to provide grants to local law enforcement agencies and communities for the purpose of supporting law enforcement-related activities.

SECTION 21. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070-321	Operating Expenses	\$	30,813,217	\$	30,813,217
GRF 070-403	Fiscal Watch/Emergency Technical Assistance	\$	400,000	\$	500,000
GRF 070-405	Electronic Data Processing - Auditing and Administration	\$	823,193	\$	823,193
GRF 070-406	Uniform Accounting Network/Technology Improvements Fund	\$	1,774,394	\$	1,774,394
TOTAL GRF General Revenue Fund		\$	33,810,804	\$	33,910,804

General Services Fund Group

109 070-601	Public Audit Expense - Intra-State	\$	10,592,547	\$	11,651,800
422 070-601	Public Audit Expense - Local Government	\$	37,617,072	\$	39,497,925
584 070-603	Training Program	\$	124,999	\$	131,250
675 070-605	Uniform Accounting Network	\$	3,015,760	\$	3,317,336
TOTAL GSF General Services Fund Group		\$	51,350,378	\$	54,598,311

Holding Account Redistribution Fund Group

R06 070-604	Continuous Receipts	\$	50,000	\$	60,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	50,000	\$	60,000
TOTAL ALL BUDGET FUND GROUPS		\$	85,211,182	\$	88,569,115

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, shall be used for all expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, or townships as outlined in Chapter 118. of the Revised Code and of school districts as outlined in Chapter 3316. of the Revised Code; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the mentioned public entities and school districts. The unencumbered balance of appropriation item 070-403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

ELECTRONIC DATA PROCESSING

The unencumbered balance of appropriation item 070-405, Electronic Data Processing - Auditing and Administration, at the end of fiscal year 2004 is transferred to fiscal year 2005 for use under the same appropriation item.

UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND

The foregoing appropriation item 070-406, Uniform Accounting Network/Technology Improvements Fund, shall be used to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State. The unencumbered balance of the appropriation at the end of fiscal year 2004 is transferred to fiscal year 2005 to pay the costs of developing and implementing the Uniform Accounting Network and technology improvements for the Office of the Auditor of State.

SECTION 22. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group

4K9 877-609 Operating Expenses	\$	535,853	\$	555,037
TOTAL GSF General Services Fund				
Group	\$	535,853	\$	555,037
TOTAL ALL BUDGET FUND GROUPS	\$	535,853	\$	555,037

SECTION 23. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund

Am. Sub. H. B. No. 95

1875

GRF 042-321	Budget Development and Implementation	\$	3,092,469	\$	2,405,243
GRF 042-401	Office of Quality Services	\$	30,000	\$	0
GRF 042-409	Commission Closures	\$	65,000	\$	0
GRF 042-410	National Association Dues	\$	27,089	\$	27,902
GRF 042-412	Audit of Auditor of State	\$	62,110	\$	55,760
TOTAL GRF General Revenue Fund		\$	3,276,668	\$	2,488,905
General Services Fund Group					
105 042-603	State Accounting	\$	9,131,651	\$	9,375,862
TOTAL GSF General Services Fund Group		\$	9,131,651	\$	9,375,862
State Special Revenue Fund Group					
5N4 042-602	OAKS Project Implementation	\$	2,062,875	\$	2,069,125
TOTAL SSR State Special Revenue Fund Group		\$	2,062,875	\$	2,069,125
TOTAL ALL BUDGET FUND GROUPS		\$	14,471,194	\$	13,933,892

OFFICE OF QUALITY SERVICES

On the effective date of this section, the Office of Quality Services is abolished and its operations shall be wound up and discontinued. The foregoing appropriation item 042-401, Office of Quality Services, shall be used to pay final payroll costs for staff assigned to the Office of Quality Services.

COMMISSION CLOSURES

The foregoing appropriation item 042-409, Commission Closures shall be used to pay for unemployment compensation costs and miscellaneous expenses related to and following the closures of the Office of Quality Services and any other state agency as defined in section 1.60 of the Revised Code.

AUDIT COSTS

Of the foregoing appropriation item 042-603, State Accounting, not more than \$400,000 in fiscal year 2004 and \$415,000 in fiscal year 2005 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.

SECTION 24. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD**General Revenue Fund**

GRF 874-100	Personal Services	\$	2,031,400	\$	2,051,400
GRF 874-320	Maintenance and Equipment	\$	1,022,262	\$	982,929
TOTAL GRF General Revenue Fund		\$	3,053,662	\$	3,034,329

General Services Fund Group

4G5 874-603	Capitol Square Maintenance Expenses	\$	15,000	\$	15,000
4S7 874-602	Statehouse Gift Shop/Events	\$	770,484	\$	770,484

TOTAL GSF General Services Fund Group	\$	785,484	\$	785,484
Underground Parking Garage				
208 874-601 Underground Parking Garage Operating	\$	2,996,801	\$	2,959,721
TOTAL UPG Underground Parking Garage	\$	2,996,801	\$	2,959,721
TOTAL ALL BUDGET FUND GROUPS	\$	6,835,947	\$	6,779,534

SECTION 25. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS

General Services Fund Group

4K9 233-601 Operating Expenses	\$	404,025	\$	431,525
TOTAL GSF General Services Fund Group	\$	404,025	\$	431,525
TOTAL ALL BUDGET FUND GROUPS	\$	404,025	\$	431,525

SECTION 26. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD

General Services Fund Group

4K9 930-609 Operating Expenses	\$	225,000	\$	450,000
TOTAL GSF General Services Fund Group	\$	225,000	\$	450,000
TOTAL ALL BUDGET FUND GROUPS	\$	225,000	\$	450,000

Notwithstanding any other law to the contrary, upon certification by the Director of Administrative Services, the Director of Budget and Management may transfer cash in an amount not to exceed the fiscal year 2004 appropriation from Fund 5P1 (Credentialing Fund) to Fund 4K9 (Occupational Licensing). The amount transferred is hereby appropriated. The cash shall be used to pay expenses related to establishing the Chemical Dependency Professionals Board, including, but not limited to, travel reimbursement of board members.

Upon completion of the transition of the Department of Alcohol and Drug Addiction's certificates and credentials issuance program to the Chemical Dependency Professionals Board, the Director of Alcohol and Drug Addiction Services shall certify to the Director of Budget and Management the remaining cash in Fund 5P1 (Credentialing Fund). The Director of Budget and Management shall transfer the certified balance from Fund 5P1 to Fund 4K9 (Occupational Licensing). This transition shall be completed in accordance with Section 5 of Am. Sub. H.B. 496 of the 124th General Assembly.

SECTION 27. CHR STATE CHIROPRACTIC BOARD

General Services Fund Group

Am. Sub. H. B. No. 95

1877

4K9 878-609	Operating Expenses	\$	591,724	\$	591,724
TOTAL GSF General Services Fund					
Group		\$	591,724	\$	591,724
TOTAL ALL BUDGET FUND GROUPS					
		\$	591,724	\$	591,724

SECTION 28. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund

GRF 876-100	Personal Services	\$	7,000,000	\$	7,000,000
GRF 876-200	Maintenance	\$	400,000	\$	400,000
GRF 876-300	Equipment	\$	91,298	\$	91,298
TOTAL GRF General Revenue Fund					
		\$	7,491,298	\$	7,491,298

Federal Special Revenue Fund Group

334 876-601	Federal Programs	\$	3,965,000	\$	3,790,000
TOTAL FED Federal Special Revenue					
Fund Group		\$	3,965,000	\$	3,790,000

State Special Revenue Fund Group

217 876-604	General Reimbursement	\$	20,951	\$	20,951
TOTAL SSR State Special					
Revenue Fund Group		\$	20,951	\$	20,951
TOTAL ALL BUDGET FUND GROUPS					
		\$	11,477,249	\$	11,302,249

SECTION 29. COM DEPARTMENT OF COMMERCE

General Revenue Fund

GRF 800-402	Grants-Volunteer Fire Departments	\$	647,953	\$	647,953
GRF 800-410	Labor and Worker Safety	\$	3,700,040	\$	3,725,040
Total GRF General Revenue Fund					
		\$	4,347,993	\$	4,372,993

General Services Fund Group

163 800-620	Division of Administration	\$	3,385,803	\$	3,490,056
163 800-637	Information Technology	\$	2,753,299	\$	2,772,924
5F1 800-635	Small Government Fire Departments	\$	250,000	\$	250,000
TOTAL GSF General Services Fund					
Group		\$	6,389,102	\$	6,512,980

Federal Special Revenue Fund Group

348 800-622	Underground Storage Tanks	\$	195,008	\$	195,008
348 800-624	Leaking Underground Storage Tanks	\$	1,850,000	\$	1,850,000
349 800-626	OSHA Enforcement	\$	1,527,750	\$	1,604,140
TOTAL FED Federal Special Revenue					
Fund Group		\$	3,572,758	\$	3,649,148

State Special Revenue Fund Group

4B2 800-631	Real Estate Appraisal Recovery	\$	60,000	\$	60,000
4H9 800-608	Cemeteries	\$	273,465	\$	273,465
4L5 800-609	Fireworks Training and Education	\$	10,976	\$	10,976
4X2 800-619	Financial Institutions	\$	2,020,798	\$	2,200,843
5B9 800-632	PI & Security Guard Provider	\$	1,188,716	\$	1,188,716

5K7	800-621	Penalty Enforcement	\$	50,000	\$	50,000
543	800-602	Unclaimed Funds-Operating	\$	7,051,051	\$	7,051,051
543	800-625	Unclaimed Funds-Claims	\$	25,512,867	\$	25,512,867
544	800-612	Banks	\$	6,657,997	\$	6,657,997
545	800-613	Savings Institutions	\$	2,765,618	\$	2,894,330
546	800-610	Fire Marshal	\$	7,855,076	\$	11,787,994
547	800-603	Real Estate	\$	250,000	\$	250,000
		Education/Research				
548	800-611	Real Estate Recovery	\$	100,000	\$	100,000
549	800-614	Real Estate	\$	3,586,754	\$	3,705,892
550	800-617	Securities	\$	4,600,000	\$	4,800,000
552	800-604	Credit Union	\$	2,613,356	\$	2,751,852
553	800-607	Consumer Finance	\$	3,764,279	\$	3,735,445
556	800-615	Industrial Compliance	\$	24,627,687	\$	25,037,257
6A4	800-630	Real Estate	\$	658,506	\$	664,006
		Appraiser-Operating				
653	800-629	UST Registration/Permit Fee	\$	1,353,632	\$	1,249,632
TOTAL SSR State Special Revenue						
Fund Group			\$	95,000,778	\$	99,982,323
Liquor Control Fund Group						
043	800-601	Merchandising	\$	341,079,554	\$	353,892,432
043	800-627	Liquor Control Operating	\$	17,248,488	\$	15,981,346
043	800-633	Economic Development Debt	\$	23,277,500	\$	29,029,500
		Service				
043	800-636	Revitalization Debt Service	\$	4,747,800	\$	9,736,300
TOTAL LCF Liquor Control						
Fund Group			\$	386,353,342	\$	408,639,578
TOTAL ALL BUDGET FUND GROUPS			\$	495,663,973	\$	523,157,022

GRANTS-VOLUNTEER FIRE DEPARTMENTS

The foregoing appropriation item 800-402, Grants-Volunteer Fire Departments, shall be used to make annual grants to volunteer fire departments of up to \$10,000, or up to \$25,000 if the volunteer fire department provides service for an area affected by a natural disaster. The grant program shall be administered by the Fire Marshal under the Department of Commerce. The Fire Marshal shall adopt rules necessary for the administration and operation of the grant program.

SMALL GOVERNMENT FIRE DEPARTMENTS

Upon the request of the Director of Commerce, the Director of Budget and Management shall transfer \$250,000 cash in each fiscal year from the State Fire Marshal Fund (Fund 546) within the State Special Revenue Fund Group to the Small Government Fire Departments Fund (Fund 5F1) within the General Services Fund Group.

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800-635, Small Government Fire Departments, may be used to provide loans to private fire departments.

LABOR AND WORKER SAFETY

The Department of Commerce may designate a portion of appropriation

item 800-410, Labor and Worker Safety, to be used to match federal funding for the OSHA on-site consultation program.

PENALTY ENFORCEMENT

The foregoing appropriation item 800-621, Penalty Enforcement, shall be used to enforce sections 4115.03 to 4115.16 of the Revised Code.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800-625, Unclaimed Funds-Claims, shall be used to pay claims pursuant to section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

BANKS FUND (FUND 544) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$2,000,000 cash from the Banks Fund (Fund 544) to the General Revenue Fund.

FIRE MARSHAL FUND (FUND 546) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$10,000,000 cash from the Fire Marshal Fund (Fund 546) to the General Revenue Fund.

REAL ESTATE FUND (FUND 549) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Real Estate Fund (Fund 549) to the General Revenue Fund.

INDUSTRIAL COMPLIANCE FUND (FUND 556) TRANSFER TO THE GRF

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$1,000,000 cash from the Industrial Compliance Fund (Fund 556), to the General Revenue Fund.

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING

The foregoing appropriation item 800-601, Merchandising, shall be used pursuant to section 4301.12 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

ECONOMIC DEVELOPMENT DEBT SERVICE

The foregoing appropriation item 800-633, Economic Development Debt Service, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. The General Assembly acknowledges that an appropriation for this purpose is not

required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800-636, Revitalization Debt Service, shall be used to pay debt service and related financing costs under sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2003, to June 30, 2005. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, Fund 163, Division of Administration, shall receive assessments from all operating funds of the department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

SECTION 30. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group

5F5 053-601 Operating Expenses	\$	9,277,519	\$	9,277,519
TOTAL GSF General Services Fund Group	\$	9,277,519	\$	9,277,519
TOTAL ALL BUDGET FUND GROUPS	\$	9,277,519	\$	9,277,519

SECTION 31. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911-401 Emergency	\$	5,000,000	\$	5,000,000
Purposes/Contingencies				
GRF 911-404 Mandate Assistance	\$	1,462,500	\$	1,462,500
GRF 911-441 Ballot Advertising Costs	\$	887,500	\$	487,500
TOTAL GRF General Revenue Fund	\$	7,350,000	\$	6,950,000

State Special Revenue Fund Group

5E2 911-601 Disaster Services	\$	4,000,000	\$	0
TOTAL SSR State Special Revenue Fund Group	\$	4,000,000	\$	0
TOTAL ALL BUDGET FUND GROUPS	\$	11,350,000	\$	6,950,000

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER ASSISTANCE

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Emergency Purposes Fund to a Department of Public Safety General Revenue Fund appropriation item to provide funding for assistance to political subdivisions made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance.

SOUTHERN OHIO CORRECTIONAL FACILITY COST

The Office of Criminal Justice Services and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from the Emergency Purposes Fund for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the foregoing appropriation item 911-601, Disaster Services, to a Department of Public Safety General Revenue Fund appropriation item to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding for disaster aid requests that meet the Emergency Management Agency's criteria for assistance.

The foregoing appropriation item 911-601, Disaster Services, shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund and appropriation item for the payment of state agency program expenses as follows:

- (A) The southern Ohio flooding, referred to as FEMA-DR-1164-OH;
- (B) The flood/storm disaster referred to as FEMA-DR-1227-OH;
- (C) The Southern Ohio flooding, referred to as FEMA-DR-1321-OH;
- (D) The flooding referred to as FEMA-DR-1339-OH;
- (E) The tornado/storms referred to as FEMA-DR-1343-OH;
- (F) Other disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist beyond the expected program costs of these disasters.

The unencumbered balance of appropriation item 911-601, Disaster Services, at the end of fiscal year 2004 is transferred to fiscal year 2005 for

use under the same appropriation item.

MANDATE ASSISTANCE

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government, school districts, and fire departments for the cost of the following three unfunded state mandates:

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;

(2) The cost, primarily to small villages and townships, of providing firefighter training and equipment or gear;

(3) The cost to school districts of in-service training for child abuse detection.

(B) The Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance.

PROGRAM	ADMINISTERING AGENCY	ESTIMATED ANNUAL AMOUNT
Prosecution Costs	Office of Criminal Justice Services	\$146,500
Firefighter Training Costs	Department of Commerce	\$731,000
Child Abuse Detection Training Costs	Department of Education	\$585,000

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education, the Controlling Board may transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to one or more of the other programs of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government, school districts, and fire departments under each of the three programs of state financial assistance identified under this section will be fully reimbursed by the state. Reimbursement levels may vary by program and shall be based on: the relationship between the appropriation transfers requested by the Department of Commerce, the Office of Criminal Justice Services, and the Department of Education and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the administering state agency; and the actual costs incurred by local units of government, school districts, and fire departments.

(F) Each of these programs of state financial assistance shall be carried out as follows:

(1) PROSECUTION COSTS

(a) Appropriations may be transferred to the Office of Criminal Justice Services to cover local prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Office of Criminal Justice Services shall adopt, apply to the Office of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Office of Criminal Justice Services shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules that have been adopted by the Office of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been made, up to a total of \$100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder; second priority shall be given to cases involving a felony of the first degree; and third priority shall be given to cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order

in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

(2) FIREFIGHTER TRAINING COSTS

Appropriations may be transferred to the Department of Commerce for use as full or partial reimbursement to local units of government and fire departments for the cost of firefighter training and equipment or gear. In accordance with rules that the department shall adopt, a local unit of government or fire department may apply to the department for a grant to cover all documented costs that are incurred to provide firefighter training and equipment or gear. The department shall make grants within the limits of the funding provided, with priority given to fire departments that serve small villages and townships.

(3) CHILD ABUSE DETECTION TRAINING COSTS

Appropriations may be transferred to the Department of Education for disbursement to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the department shall adopt, a local school district may apply to the department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall make grants within the limits of the funding provided.

(G) Any moneys allocated within appropriation item 911-404, Mandate Assistance, not fully utilized may, upon application of the Ohio Public Defender Commission, and with the approval of the Controlling Board, be disbursed to boards of county commissioners to provide additional reimbursement for the costs incurred by counties in providing defense to indigent defendants pursuant to Chapter 120. of the Revised Code.

The amount to be disbursed to each county shall be allocated proportionately on the basis of the total amount of reimbursement paid to each county as a percentage of the amount of reimbursement paid to all of the counties during the most recent state fiscal year for which data is available and as calculated by the Ohio Public Defender Commission.

BALLOT ADVERTISING COSTS

Pursuant to requests submitted by the Ohio Ballot Board, the Controlling Board shall approve transfers from the foregoing appropriation item 911-441, Ballot Advertising Costs, to an Ohio Ballot Board appropriation item in order to reimburse county boards of elections for the cost of public notices associated with statewide ballot initiatives.

Of the foregoing appropriation item 911-441, Ballot Advertising Costs, the Director of Budget and Management shall transfer any amounts that are

not needed for the purpose of reimbursing county boards of elections for the cost of public notices associated with statewide ballot initiatives to appropriation item 911-404, Mandate Assistance.

SECTION 32. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group

4K9 879-609 Operating Expenses	\$	2,681,359	\$	2,822,359
TOTAL GSF General Services Fund Group	\$	2,681,359	\$	2,822,359
TOTAL ALL BUDGET FUND GROUPS	\$	2,681,359	\$	2,822,359

SECTION 33. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group

4K9 899-609 Operating Expenses	\$	1,021,524	\$	1,044,812
TOTAL GSF General Services Fund Group	\$	1,021,524	\$	1,044,812
TOTAL ALL BUDGET FUND GROUPS	\$	1,021,524	\$	1,044,812

SECTION 34. CLA COURT OF CLAIMS

General Revenue Fund

GRF 015-321 Operating Expenses	\$	2,452,000	\$	2,477,000
TOTAL GRF General Revenue Fund	\$	2,452,000	\$	2,477,000

State Special Revenue Fund Group

5K2 015-603 CLA Victims of Crime	\$	1,532,043	\$	1,582,684
TOTAL SSR State Special Revenue Fund Group	\$	1,532,043	\$	1,582,684
TOTAL ALL BUDGET FUND GROUPS	\$	3,984,043	\$	4,059,684

OFFICE SPACE RENTAL EXPENSES

Of the foregoing appropriation item 015-321, Operating Expenses, in fiscal year 2005, \$302,000 shall be for the purpose of paying fiscal year 2005 office space rental expenses. Upon approval of the Controlling Board, the Court of Claims may expend up to \$302,000 for the purpose of paying fiscal year 2005 office space rental expenses.

SECTION 35. CJS OFFICE OF CRIMINAL JUSTICE SERVICES

General Revenue Fund

GRF 196-401 Criminal Justice Information System	\$	534,570	\$	520,503
GRF 196-403 Center for Violence Prevention	\$	20,000	\$	20,000
GRF 196-405 Violence Prevention Subsidy	\$	707,076	\$	688,469
GRF 196-424 Operating Expenses	\$	1,431,371	\$	1,427,971

Am. Sub. H. B. No. 95

1886

TOTAL GRF General Revenue Fund	\$	2,693,017	\$	2,656,943
General Services Fund Group				
4P6 196-601 General Services	\$	135,450	\$	86,500
TOTAL GSF Services Fund Group	\$	135,450	\$	86,500
Federal Special Revenue Fund Group				
3L5 196-604 Justice Program	\$	30,334,908	\$	30,311,870
3U1 196-602 Criminal Justice Federal Programs	\$	1,000,000	\$	0
3V8 196-605 Federal Program Purposes FFY 01	\$	250,000	\$	0
TOTAL FED Federal Special Revenue Fund Group	\$	31,584,908	\$	30,311,870
TOTAL ALL BUDGET FUND GROUPS	\$	34,413,375	\$	33,055,313

INDIGENT DEFENSE

The Office of Criminal Justice Services shall make all efforts to maximize the amount of funding available for the defense of indigent persons.

CRIMINAL JUSTICE INFORMATION SYSTEM

The foregoing appropriation item 196-401, Criminal Justice Information System, shall be used by the Office of Criminal Justice Services to work on a plan to improve Ohio's criminal justice information systems. The Director of Criminal Justice Services shall evaluate the progress of this plan and issue a report to the Governor, the Speaker and the Minority Leader of the House of Representatives, the President and the Minority Leader of the Senate, the Criminal Justice Policy Board, and the Legislative Service Commission by the first day of January of each year of the two-year biennium beginning July 1, 2003, and ending June 30, 2005.

VIOLENCE PREVENTION SUBSIDY

Of the foregoing appropriation item 196-405, Violence Prevention Subsidy, \$60,000 in fiscal year 2004 shall be used for Montgomery County's STVM Safe House Domestic Transitional Housing.

OPERATING EXPENSES

Of the foregoing appropriation item 196-424, Operating Expenses, up to \$650,000 in each fiscal year shall be used for the purpose of matching federal funds.

JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT

The foregoing appropriation item 196-602, Criminal Justice Federal Programs, shall be used to fund and close out the Juvenile Accountability Incentive Block Grant Program for federal fiscal year 1999.

SECTION 36. DEN STATE DENTAL BOARD

General Services Fund Group

Am. Sub. H. B. No. 95

1887

4K9 880-609	Operating Expenses	\$	1,324,456	\$	1,346,656
TOTAL GSF General Services Fund					
Group		\$	1,324,456	\$	1,346,656
TOTAL ALL BUDGET FUND GROUPS		\$	1,324,456	\$	1,346,656

SECTION 37. BDP BOARD OF DEPOSIT

General Services Fund Group

4M2 974-601	Board of Deposit	\$	1,676,000	\$	1,676,000
TOTAL GSF General Services Fund					
Group		\$	1,676,000	\$	1,676,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,676,000	\$	1,676,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 608) to the Board of Deposit Expense Fund (Fund 4M2). The latter fund shall be used to pay for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 38. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF 195-321	Operating Expenses	\$	2,695,236	\$	3,020,115
GRF 195-401	Thomas Edison Program	\$	16,634,934	\$	16,334,934
GRF 195-404	Small Business Development	\$	1,740,722	\$	1,740,722
GRF 195-405	Minority Business	\$	1,620,755	\$	1,669,378
Development Division					
GRF 195-407	Travel and Tourism	\$	6,049,345	\$	7,049,345
GRF 195-410	Defense Conversion	\$	1,500,000	\$	0
Assistance					
GRF 195-412	Business Development Grants	\$	8,905,530	\$	8,905,530
GRF 195-414	First Frontier Match	\$	389,987	\$	389,987
GRF 195-415	Economic Development	\$	5,594,975	\$	5,594,975
Division and Regional Offices					
GRF 195-416	Governor's Office of	\$	4,372,324	\$	4,372,324
Appalachia					
GRF 195-417	Urban/Rural Initiative	\$	589,390	\$	589,390
GRF 195-422	Third Frontier Action Fund	\$	16,790,000	\$	16,790,000
GRF 195-426	Clean Ohio Administration	\$	518,730	\$	518,730
GRF 195-432	International Trade	\$	4,492,713	\$	4,492,713
GRF 195-434	Investment in Training Grants	\$	12,227,500	\$	12,227,500
GRF 195-436	Labor/Management	\$	811,869	\$	811,869
Cooperation					
GRF 195-497	CDBG Operating Match	\$	1,107,400	\$	1,107,400
GRF 195-498	State Energy Match	\$	100,000	\$	100,000
GRF 195-501	Appalachian Local	\$	380,080	\$	380,080
Development Districts					
GRF 195-502	Appalachian Regional	\$	238,274	\$	246,803
Commission Dues					
GRF 195-507	Travel and Tourism Grants	\$	1,025,000	\$	1,025,000

Am. Sub. H. B. No. 95

1888

GRF 195-515	Economic Development	\$	10,000,000	\$	10,000,000
	Contingency				
GRF 195-516	Shovel Ready Sites	\$	2,500,000	\$	2,500,000
GRF 195-905	Third Frontier Research & Commercialization General Obligation Debt Service	\$	0	\$	7,360,000
TOTAL GRF General Revenue Fund		\$	100,284,764	\$	107,226,795
General Services Fund Group					
135 195-605	Supportive Services	\$	7,417,068	\$	7,539,686
136 195-621	International Trade	\$	24,915	\$	24,915
685 195-636	General Reimbursements	\$	1,316,012	\$	1,232,530
TOTAL GSF General Services Fund Group		\$	8,757,995	\$	8,797,131
Federal Special Revenue Fund Group					
3K8 195-613	Community Development Block Grant	\$	65,000,000	\$	65,000,000
3K9 195-611	Home Energy Assistance Block Grant	\$	85,036,000	\$	85,036,000
3K9 195-614	HEAP Weatherization	\$	16,219,479	\$	16,219,479
3L0 195-612	Community Services Block Grant	\$	25,235,000	\$	25,235,000
3V1 195-601	HOME Program	\$	40,000,000	\$	40,000,000
308 195-602	Appalachian Regional Commission	\$	350,200	\$	350,200
308 195-603	Housing and Urban Development	\$	5,000,000	\$	5,000,000
308 195-605	Federal Projects	\$	15,300,248	\$	15,300,248
308 195-609	Small Business Administration	\$	4,196,381	\$	4,296,381
308 195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659
335 195-610	Oil Overcharge	\$	8,500,000	\$	8,500,000
380 195-622	Housing Development Operating	\$	5,606,080	\$	5,667,627
TOTAL FED Federal Special Revenue Fund Group		\$	273,841,047	\$	274,002,594
State Special Revenue Fund Group					
4F2 195-639	State Special Projects	\$	540,183	\$	290,183
4H4 195-641	First Frontier	\$	500,000	\$	500,000
4S0 195-630	Enterprise Zone Operating	\$	211,900	\$	211,900
4S1 195-634	Job Creation Tax Credit Operating	\$	375,800	\$	375,800
4W1 195-646	Minority Business Enterprise Loan	\$	2,580,597	\$	2,580,597
444 195-607	Water and Sewer Commission Loans	\$	523,775	\$	523,775
445 195-617	Housing Finance Operating	\$	5,040,843	\$	4,983,738
450 195-624	Minority Business Bonding Program Administration	\$	13,563	\$	13,563
451 195-625	Economic Development Financing Operating	\$	2,358,310	\$	2,358,310
5M4 195-659	Universal Service	\$	170,000,000	\$	170,000,000
5M5 195-660	Energy Efficiency Revolving Loan	\$	12,000,000	\$	12,000,000

Am. Sub. H. B. No. 95

1889

611	195-631	Water and Sewer Administration	\$	15,713	\$	15,713
617	195-654	Volume Cap Administration	\$	200,000	\$	200,000
646	195-638	Low and Moderate Income Housing Trust Fund	\$	40,000,000	\$	40,000,000
TOTAL SSR State Special Revenue Fund Group			\$	234,360,684	\$	234,053,579
Facilities Establishment Fund Group						
009	195-664	Innovation Ohio	\$	50,000,000	\$	55,000,000
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149
4Z6	195-647	Rural Industrial Park Loan	\$	5,000,000	\$	5,000,000
5D2	195-650	Urban Redevelopment Loans	\$	10,475,000	\$	10,475,000
5H1	195-652	Family Farm Loan Guarantee	\$	1,500,000	\$	1,500,000
5S8	195-627	Rural Development Initiative	\$	5,000,000	\$	5,000,000
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000
TOTAL 037 Facilities Establishment Fund Group			\$	138,906,149	\$	143,906,149
Clean Ohio Revitalization Fund						
003	195-663	Clean Ohio Operating	\$	150,000	\$	150,000
TOTAL 003 Clean Ohio Revitalization Fund			\$	150,000	\$	150,000
TOTAL ALL BUDGET FUND GROUPS			\$	756,300,639	\$	768,136,248

SECTION 38.01. THOMAS EDISON PROGRAM

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of this program by the Technology Division.

Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2004 and \$2,300,000 in fiscal year 2005 shall be used for operating expenditures in administering the programs of the Technology Division.

SECTION 38.02. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed.

The foregoing appropriation item 195-404, Small Business Development, may be used to provide grants to local organizations to support the operation of Small Business Development Centers and other local economic development activity promoting small business, and for the cost of administering the small business development center program. The

centers shall provide technical, financial, and management consultation for small business and shall facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 (1980) as amended by Public Law No. 98-395 (1984), and regulations and policy guidelines for the programs under this law.

In addition, the Office of Small Business may operate the 1st-Stop Business Connection and implement and coordinate the duties imposed on the Department of Development by Am. Sub. S.B. 239 of the 115th General Assembly.

MINORITY BUSINESS DEVELOPMENT DIVISION

Of the foregoing appropriation item 195-405, Minority Business Development Division, up to \$1,060,000 but not less than \$954,000 in each fiscal year shall be used to fund minority contractors and business assistance organizations. The Minority Business Development Division shall determine which cities need minority contractors and business assistance organizations by utilizing United States Census Bureau data and zip codes to locate the highest concentrations of minority businesses. The Minority Business Development Division also shall determine the numbers of minority contractors and business assistance organizations necessary and the amount of funding to be provided each. In addition, the Minority Business Development Division shall continue to plan and implement business conferences.

SECTION 38.03. OHIO PREPAREDNESS FOR BRAC-2005

The foregoing appropriation item 195-410, Defense Conversion Assistance, shall be used for grants to local communities to pay for the costs associated with the research and preparation of response plans for military installations in Ohio, including Wright Patterson Air Force Base, Springfield Air National Guard Base, and other Ohio military installations in the state for the U.S. Department of Defense Base Realignment and Closure (BRAC) 2005 Program. The grants shall contain requirements for cost sharing to evidence the commitment of local communities to this process. The Director of Development may reserve up to five per cent of the appropriation for contingency and administration support.

SECTION 38.04. BUSINESS DEVELOPMENT

The foregoing appropriation item 195-412, Business Development

Grants, shall be used as an incentive for attracting and retaining business opportunities for the state. Any such business opportunity, whether new, expanding, or relocating in Ohio, is eligible for funding. The project must create or retain a significant number of jobs for Ohioans. Grant awards may be considered only when (1) the project's viability hinges on an award of funds from appropriation item 195-412, Business Development Grants; (2) all other public or private sources of financing have been considered; or (3) the funds act as a catalyst for the infusion into the project of other financing sources.

The department's primary goal shall be to award funds to political subdivisions of the state for off-site infrastructure improvements. In order to meet the particular needs of economic development in a region, the department may elect to award funds directly to a business for on-site infrastructure improvements. "Infrastructure improvements" mean improvements to water system facilities, sewer and sewage treatment facilities, electric or gas service facilities, fiber optic facilities, rail facilities, site preparation, and parking facilities. The Director of Development may recommend the funds be used in an alternative manner when deemed appropriate to meet an extraordinary economic development opportunity or need.

The foregoing appropriation item 195-412, Business Development Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

The foregoing appropriation item 195-412, Business Development Grants, may be used for, but is not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

SECTION 38.05. FIRST FRONTIER MATCH

The foregoing appropriation item 195-414, First Frontier Match, shall be used as matching funds to targeted counties for the purpose of marketing state, regional, and local characteristics that may attract economic development. "Targeted counties" mean counties that have a population of less than 175,000 residents. The appropriation may be used either for marketing programs by individual targeted counties or for regional marketing campaigns that are marketing programs in which at least one

targeted county is participating with one or more other targeted counties or larger counties.

ECONOMIC DEVELOPMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195-415, Economic Development Division and Regional Offices, shall be used for the operating expenses of the Economic Development Division and the regional economic development offices and for grants for cooperative economic development ventures.

SECTION 38.06. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia. Funds not expended for planning and liaison activities may be expended for special project grants within the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$250,000 each fiscal year shall be used to match federal funds from the Appalachian Regional Commission to provide job training to impact the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, up to \$4,372,324 in each fiscal year shall be used in conjunction with other federal and state funds to provide financial assistance to projects in Ohio's Appalachian counties in order to further the goals of the Appalachian Regional Commission. Such projects and project sponsors shall meet Appalachian Regional Commission eligibility requirements. Grants shall be administered by the Department of Development.

URBAN/RURAL INITIATIVE

The foregoing appropriation item 195-417, Urban/Rural Initiative, shall be used to make grants in accordance with sections 122.19 to 122.22 of the Ohio Revised Code.

SECTION 38.07. THIRD FRONTIER ACTION FUND

The foregoing appropriation item 195-422, Third Frontier Action Fund, shall be used to make grants in accordance with sections 184.01 and 184.02 of the Revised Code. Prior to the release of funds from appropriation item 195-422, Third Frontier Action Fund, each grant award shall be recommended for funding by the Third Frontier Commission and obtain approval from the Controlling Board.

Of the foregoing appropriation item 195-422, Third Frontier Action Fund, not more than six per cent in each fiscal year shall be used for operating expenditures in administering the program.

In addition to the six per cent for operating expenditures, an additional administrative amount, not to exceed \$1,500,000 within the biennium, shall be available for proposal evaluation, research and analyses, and marketing efforts deemed necessary to receive and disseminate information about science and technology-related opportunities in the state.

SCIENCE AND TECHNOLOGY COLLABORATION

The Department of Development shall work in close collaboration with the Board of Regents and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, the Board of Regents, and Air Quality Development Authority, as those agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds.

All programs listed in the preceding paragraph shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting

Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

SECTION 38.08. INTERNATIONAL TRADE

The foregoing appropriation item 195-432, International Trade, shall be used to operate and to maintain Ohio's out-of-state trade offices.

The Director of Development may enter into contracts with foreign nationals to staff foreign offices. Such contracts may be paid in local currency or United States currency and shall be exempt from the provisions of section 127.16 of the Revised Code. The director also may establish foreign currency accounts in accordance with section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of the foreign trade offices.

The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and to assist Ohio manufacturers and agricultural producers in exporting to foreign countries in conjunction with the Department of Agriculture.

Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.

SECTION 38.09. OHIO INVESTMENT IN TRAINING PROGRAM

The foregoing appropriation item 195-434, Investment in Training Grants, shall be used to promote training through grants for the reimbursement of eligible training expenses.

SECTION 38.10. CDBG OPERATING MATCH

The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program.

STATE OPERATING MATCH

The foregoing appropriation item 195-498, State Energy Match, shall be used to provide matching funds as required by the United States Department of Energy to administer the federally funded State Energy Plan.

SECTION 38.11. TRAVEL AND TOURISM GRANTS

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to \$160,000 in each fiscal year of the biennium may be used to support the outdoor dramas Trumpet in the Land, Blue Jacket, Tecumseh, and the Becky Thatcher Showboat Drama; \$40,000 in each fiscal year shall be used for the Cincinnati Film Commission; \$40,000 in each fiscal year shall be used for the Cleveland Film Commission; \$600,000 in each fiscal year shall be used for grants to the International Center for the Preservation of Wild Animals; \$120,000 in each fiscal year shall be used for the Ottawa County Visitors Bureau, the Sandusky/Erie County Visitors and Convention Bureau, and the Lorain County Visitors Bureau for collaborative efforts to promote tourism; \$25,000 in each fiscal year shall be used for the Ohio River Trails Program; \$40,000 in fiscal year 2004 shall be used for the United States Senior Open in Toledo; \$20,000 in fiscal year 2005 for the Professional Football Hall of Fame; and \$20,000 in fiscal year 2005 for the Cuyahoga Valley Scenic Railroad.

SECTION 38.12. SHOVEL READY SITES

The foregoing appropriation item 195-516, Shovel Ready Sites, shall be used for the Shovel Ready Sites Program.

The Director of Development shall contract for pilot projects with three port authorities, two of which shall be from urban counties with populations of at least 200,000 but not more than 600,000 residents, and one of which shall be from a rural county. The appropriation shall be used to leverage federal funds, local funds, or both, to provide grants for the preparation of sites for immediate construction for infrastructure in the state.

SECTION 38.13. THIRD FRONTIER RESEARCH & COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195-905, Third Frontier Research & Commercialization General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2003, to June 30, 2005, on obligations to be issued for research and development purposes under Section 2p of Article VIII, Ohio Constitution, and implementing legislation. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 38.14. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. Such an assessment shall be based on a plan submitted to and approved by the Office of Budget and Management by the first day of August of each fiscal year, and contain the characteristics of administrative ease and uniform application.

A division's payments shall be credited to the Supportive Services Fund (Fund 135) using an intrastate transfer voucher.

GENERAL REIMBURSEMENT

The foregoing appropriation item 195-636, General Reimbursements, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs.

SECTION 38.15. TRAINING SERVICES

Of the foregoing appropriation item 195-605, Federal Projects, \$400,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.

SECTION 38.16. HEAP WEATHERIZATION

Fifteen per cent of the federal funds received by the state for the Home Energy Assistance Block Grant shall be deposited in appropriation item 195-614, HEAP Weatherization (Fund 3K9), and shall be used to provide home weatherization services in the state.

Of the foregoing appropriation item 195-614, HEAP Weatherization, \$200,000 in each fiscal year shall be used for grants to the Ohio Weatherization Training Center, administered by the Corporation for Ohio Appalachian Development, for training and technical assistance services.

STATE SPECIAL PROJECTS

The foregoing appropriation item 195-639, State Special Projects, shall be used as a general account for the deposit of private-sector funds from utility companies and other miscellaneous state funds. Private-sector moneys shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) market economic development opportunities in the state, and (3) leverage additional federal funds. State

funds shall be used to match federal housing grants for the homeless.

SECTION 38.17. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board loan program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W1).

All operating costs of administering the Minority Business Enterprise Loan Fund shall be paid from the Minority Business Enterprise Loan Fund (Fund 4W1).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of Am. Sub. H.B. 283 of the 123rd General Assembly, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the 2003-2005 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program pursuant to section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are appropriated.

MINORITY BUSINESS BONDING PROGRAM ADMINISTRATION

Investment earnings of the Minority Business Bonding Fund (Fund 449) shall be credited to the Minority Business Bonding Program Administration Fund (Fund 450).

SECTION 38.18. ECONOMIC DEVELOPMENT FINANCING
OPERATING

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter 166. of the Revised Code and under sections 122.43 and 122.45 of the Revised Code.

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195-654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 617) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

UNIVERSAL SERVICE FUND

The foregoing appropriation item 195-659, Universal Service, shall be used to provide payments to regulated electric utility companies for low-income customers enrolled in Percentage of Income Payment Plan (PIPP) electric accounts, to fund targeted energy efficiency and customer education services to PIPP customers, and to cover the department's administrative costs related to the Universal Service Fund Programs.

ENERGY EFFICIENCY REVOLVING LOAN FUND

The foregoing appropriation item 195-660, Energy Efficiency Revolving Loan, shall be used to provide financial assistance to customers for eligible energy efficiency projects for residential, commercial and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in the Revised Code and rules adopted by the Director of Development.

GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS

All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators, (henceforth referred to as the "Global Analysts Settlement Agreements") shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y6), which is hereby created in the state treasury. The fund shall be used by the Director of Development to support economic development projects for which appropriations would not otherwise be available, and shall be subject to the submission of a request to the Controlling Board by the Director outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 38.19. FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$1,800,000 in cash per fiscal year may be transferred from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval pursuant to division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to \$20,475,000 in cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Urban Redevelopment Loans Fund (Fund 5D2) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project.

Notwithstanding Chapter 166. of the Revised Code, up to \$5,000,000 per fiscal year in cash may be transferred from the Facilities Establishment Fund (Fund 037) to the Rural Industrial Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

FAMILY FARM LOAN PROGRAM

Notwithstanding Chapter 166. of the Revised Code, up to \$1,500,000 in each fiscal year shall be transferred from moneys in the Facilities Establishment Fund (Fund 037) to the Family Farm Loan Guarantee Fund (Fund 5H1) in the Department of Development. These moneys shall be used for loan guarantees. The transfer is subject to Controlling Board approval.

Financial assistance from the Family Farm Loan Guarantee Fund (Fund 5H1) shall be repaid to Fund 5H1. This fund is established in accordance with sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code.

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to exist, all outstanding balances, all loan repayments, and any other outstanding obligations shall revert to the Facilities Establishment Fund (Fund 037).

RURAL DEVELOPMENT INITIATIVE FUND

(A)(1) The Rural Development Initiative Fund (Fund 5S8) shall receive moneys from the Facilities Establishment Fund (Fund 037). The Director of

Development may make grants from the Rural Development Initiative Fund as specified in division (A)(2) of this section to eligible applicants in Appalachian counties and in rural counties in the state that are designated as distressed pursuant to section 122.25 of the Revised Code. Preference shall be given to eligible applicants located in Appalachian counties designated as distressed by the federal Appalachian Regional Commission. The Rural Development Initiative Fund (Fund 5S8) shall cease to exist after June 30, 2007. All moneys remaining in the Fund after that date shall revert to the Facilities Establishment Fund (Fund 037).

(2) The Director of Development shall make grants from the Rural Development Initiative Fund (Fund 5S8) only to eligible applicants who also qualify for and receive funding under the Rural Industrial Park Loan Program as specified in sections 122.23 to 122.27 of the Revised Code. Eligible applicants shall use the grants for the purposes specified in section 122.24 of the Revised Code. All projects supported by grants from the fund are subject to Chapter 4115. of the Revised Code as specified in division (E) of section 166.02 of the Revised Code. The Director shall develop program guidelines for the transfer and release of funds. The release of grant moneys to an eligible applicant is subject to Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$5,000,000 per fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Rural Development Initiative Fund (Fund 5S8). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195-628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed asset financing.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer up to \$3,000,000 per fiscal year in cash on an as needed basis at the request of the Director of Development from the Facilities Establishment Fund (Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The transfer is subject to Controlling Board approval pursuant to section 166.03 of the Revised Code.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195-664, Innovation Ohio, shall be

used to provide for innovation Ohio purposes, including loan guarantees and loans pursuant to Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code. Of the foregoing appropriation item 195-664, Innovation Ohio, the unencumbered balance of the appropriation at the end of fiscal year 2004 shall be transferred by the Director of Budget and Management to fiscal year 2005.

SECTION 38.20. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.

SECTION 39. OBD OHIO BOARD OF DIETETICS

General Services Fund Group

4K9 860-609	Operating Expenses	\$	334,917	\$	329,687
TOTAL GSF General Services Fund Group		\$	334,917	\$	329,687
TOTAL ALL BUDGET FUND GROUPS		\$	334,917	\$	329,687

SECTION 40. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

General Revenue Fund

GRF 145-401	Commission on Dispute Resolution/Management	\$	500,000	\$	500,000

TOTAL GRF General Revenue Fund		\$	500,000	\$	500,000

General Services Fund Group

4B6 145-601	Gifts and Grants	\$	140,000	\$	140,000
TOTAL GSF General Services Fund Group		\$	140,000	\$	140,000

Federal Special Revenue Fund Group

3S6 145-602	Dispute Resolution: Federal	\$	140,000	\$	140,000
TOTAL FED Federal Special Revenue Fund Group		\$	140,000	\$	140,000

TOTAL ALL BUDGET FUND GROUPS		\$	780,000	\$	780,000

COMMISSION ON DISPUTE RESOLUTION/MANAGEMENT

The foregoing appropriation item 145-401, Commission on Dispute Resolution/Management, shall be used in each fiscal year by the Commission on Dispute Resolution and Conflict Management for the purpose of providing dispute resolution and conflict management training, consultation, and materials for state and local government, communities, school districts, and courts and, in consultation with the Department of Education, for the purpose of offering competitive school conflict programs to school districts.

The Commission shall assist the Department of Education in the development and dissemination of the school conflict management programs to school districts.

SECTION 41. EDU DEPARTMENT OF EDUCATION

General Revenue Fund

GRF 200-100	Personal Services	\$	12,211,314	\$	12,211,314
GRF 200-320	Maintenance and Equipment	\$	5,066,249	\$	5,066,249
GRF 200-408	Public Preschool	\$	19,018,551	\$	19,018,551
GRF 200-410	Professional Development	\$	29,490,073	\$	29,765,073
GRF 200-411	Family and Children First	\$	3,324,750	\$	3,324,750
GRF 200-420	Technical Systems Development	\$	5,703,750	\$	5,703,750
GRF 200-421	Alternative Education Programs	\$	16,135,547	\$	16,135,547
GRF 200-422	School Management Assistance	\$	1,778,000	\$	1,778,000
GRF 200-424	Policy Analysis	\$	592,220	\$	592,220
GRF 200-425	Tech Prep Consortia Support	\$	2,133,213	\$	2,133,213
GRF 200-426	Ohio Educational Computer Network	\$	34,331,741	\$	34,331,741
GRF 200-427	Academic Standards	\$	9,000,592	\$	9,000,592
GRF 200-431	School Improvement Initiatives	\$	10,905,625	\$	10,905,625
GRF 200-433	Reading/Writing/Math Improvement	\$	20,488,264	\$	20,488,264
GRF 200-437	Student Assessment	\$	41,353,391	\$	45,953,391
GRF 200-439	Accountability/Report Cards	\$	4,087,500	\$	4,087,500
GRF 200-441	American Sign Language	\$	207,717	\$	207,717
GRF 200-442	Child Care Licensing	\$	1,385,633	\$	1,385,633
GRF 200-445	OhioReads Admin/Volunteer Support	\$	4,500,000	\$	4,500,000
GRF 200-446	Education Management Information System	\$	16,928,969	\$	16,928,969
GRF 200-447	GED Testing/Adult High School	\$	1,829,106	\$	1,829,106
GRF 200-448	Educator Preparation	\$	24,375	\$	24,375
GRF 200-449	Head Start/Head Start Plus Start Up	\$	11,000,000	\$	5,000,000
GRF 200-452	Teaching Success Commission Initiatives	\$	1,650,000	\$	1,650,000
GRF 200-455	Community Schools	\$	4,231,842	\$	4,231,842
GRF 200-500	School Finance Equity	\$	14,039,495	\$	7,819,443
GRF 200-501	Base Cost Funding	\$	4,391,033,023	\$	4,409,958,425
GRF 200-502	Pupil Transportation	\$	394,950,126	\$	404,245,812
GRF 200-503	Bus Purchase Allowance	\$	17,199,960	\$	17,199,960
GRF 200-505	School Lunch Match	\$	8,998,025	\$	8,998,025
GRF 200-509	Adult Literacy Education	\$	8,774,250	\$	8,774,250
GRF 200-511	Auxiliary Services	\$	127,903,356	\$	127,903,356
GRF 200-513	Student Intervention Services	\$	38,890,815	\$	41,090,815
GRF 200-514	Postsecondary Adult	\$	19,919,464	\$	19,919,464

GRF 200-520	Career-Technical Education Disadvantaged Pupil Impact Aid	\$	371,766,738	\$	373,266,738
GRF 200-521	Gifted Pupil Program	\$	48,201,031	\$	48,201,031
GRF 200-525	Parity Aid	\$	320,677,373	\$	426,951,154
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$	55,803,103	\$	55,803,103
GRF 200-540	Special Education Enhancements	\$	137,214,484	\$	139,536,046
GRF 200-545	Career-Technical Education Enhancements	\$	14,572,907	\$	14,572,907
GRF 200-546	Charge-Off Supplement	\$	48,478,418	\$	48,478,418
GRF 200-558	Emergency Loan Interest Subsidy	\$	3,022,500	\$	2,300,000
GRF 200-566	OhioReads Grants	\$	12,874,777	\$	12,832,272
GRF 200-578	Safe and Supportive Schools	\$	3,576,348	\$	3,576,348
GRF 200-901	Property Tax Allocation - Education	\$	783,350,000	\$	822,360,000
GRF 200-906	Tangible Tax Exemption - Education	\$	70,710,000	\$	67,710,000
TOTAL GRF General Revenue Fund		\$	7,149,334,615	\$	7,317,750,989
General Services Fund Group					
138 200-606	Computer Services	\$	7,404,690	\$	7,635,949
4D1 200-602	Ohio Prevention/Education Resource Center	\$	347,000	\$	347,000
4L2 200-681	Teacher Certification and Licensure	\$	5,038,017	\$	5,236,517
452 200-638	Miscellaneous Revenue	\$	500,000	\$	500,000
5B1 200-651	Child Nutrition Services	\$	800,000	\$	800,000
5H3 200-687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000
596 200-656	Ohio Career Information System	\$	516,694	\$	529,761
TOTAL GSF General Services Fund Group		\$	32,606,401	\$	33,049,227
Federal Special Revenue Fund Group					
3C5 200-661	Early Childhood Education	\$	21,508,746	\$	21,508,746
3D1 200-664	Drug Free Schools	\$	13,169,757	\$	13,347,966
3D2 200-667	Honors Scholarship Program	\$	1,786,500	\$	1,786,500
3H9 200-605	Head Start Collaboration Project	\$	275,000	\$	275,000
3L6 200-617	Federal School Lunch	\$	185,948,186	\$	191,898,528
3L7 200-618	Federal School Breakfast	\$	48,227,431	\$	49,524,254
3L8 200-619	Child/Adult Food Programs	\$	63,577,244	\$	65,293,830
3L9 200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701
3M0 200-623	ESEA Title 1A	\$	356,458,504	\$	384,975,184
3M1 200-678	Innovative Education	\$	15,041,997	\$	16,094,937
3M2 200-680	Ind W/Disab Education Act	\$	288,468,284	\$	331,392,575
3S2 200-641	Education Technology	\$	19,682,057	\$	20,469,339
3T4 200-613	Public Charter Schools	\$	23,287,500	\$	26,187,113
3Y2 200-688	21st Century Community Learning Centers	\$	17,138,239	\$	18,500,000

Am. Sub. H. B. No. 95

1904

3Y4	200-632	Reading First	\$	29,881,256	\$	33,168,194
3Y6	200-635	Improving Teacher Quality	\$	103,686,420	\$	104,100,000
3Y7	200-689	English Language Acquisition	\$	4,872,334	\$	5,505,737
3Z2	200-690	State Assessments	\$	11,894,315	\$	12,489,031
309	200-601	Educationally Disadvantaged	\$	22,148,769	\$	22,899,001
366	200-604	Adult Basic Education	\$	21,369,906	\$	22,223,820
367	200-607	School Food Services	\$	10,767,759	\$	11,144,631
368	200-614	Veterans' Training	\$	626,630	\$	655,587
369	200-616	Career-Tech Education	\$	8,165,672	\$	8,165,672
		Federal Enhancement				
370	200-624	Education of Exceptional Children	\$	1,933,910	\$	1,933,910
374	200-647	Troops to Teachers	\$	2,618,076	\$	2,622,370
TOTAL FED Federal Special Revenue Fund Group			\$	1,320,564,139	\$	1,414,191,626
State Special Revenue Fund Group						
4R7	200-695	Indirect Cost Recovery	\$	5,002,500	\$	5,250,400
4V7	200-633	Interagency Support	\$	800,000	\$	800,000
454	200-610	Guidance and Testing	\$	956,761	\$	956,761
455	200-608	Commodity Foods	\$	11,308,000	\$	11,624,624
5U2	200-685	National Education Statistics	\$	200,000	\$	200,000
5W2	200-663	Head Start Plus/Head Start	\$	57,170,000	\$	108,184,000
5X8	200-453	Jobs for Ohio Graduates Program	\$	3,500,000	\$	3,500,000
598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910
		Reimbursement				
620	200-615	Educational Grants	\$	1,000,000	\$	1,000,000
TOTAL SSR State Special Revenue Fund Group			\$	81,266,171	\$	132,844,695
Lottery Profits Education Fund Group						
017	200-612	Base Cost Funding	\$	606,123,500	\$	606,195,300
017	200-682	Lease Rental Payment	\$	31,776,500	\$	31,704,700
		Reimbursement				
TOTAL LPE Lottery Profits Education Fund Group			\$	637,900,000	\$	637,900,000
Revenue Distribution Fund Group						
053	200-900	School District Property Tax Replacement	\$	115,911,593	\$	115,911,593
TOTAL RDF Revenue Distribution Fund Group			\$	115,911,593	\$	115,911,593
TOTAL ALL BUDGET FUND GROUPS			\$	9,337,582,973	\$	9,651,648,130

SECTION 41.01. PERSONAL SERVICES

Of the foregoing appropriation item 200-100, Personal Services, \$1,630,181 in each fiscal year shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

MAINTENANCE AND EQUIPMENT

Of the foregoing appropriation item 200-320, Maintenance and

Equipment, up to \$25,000 may be expended in each fiscal year for State Board of Education out-of-state travel.

Of the foregoing appropriation item 200-320, Maintenance and Equipment, \$692,014 in each fiscal year shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

SECTION 41.02. PUBLIC PRESCHOOL

The Department of Education shall distribute the foregoing appropriation item 200-408, Public Preschool, to pay the costs of comprehensive preschool programs. As used in this section, "school district" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(A) In each fiscal year, up to two per cent of the total appropriation may be used by the department for program support and technical assistance; developing program capacity; and assisting programs with facilities planning, construction, renovation, or lease agreements in conjunction with the Community Development Finance Fund (CDFF). The Department shall distribute the remainder of the appropriation in each fiscal year to serve children from families earning not more than 185 per cent of the federal poverty guidelines.

(B) The department shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Head Start agencies, and other interested parties regarding the Public Preschool Program and performance indicators, as outlined by the Department.

(C) For purposes of this section, "eligible child" means a child who is at least three years of age, is not of the age to be eligible for kindergarten, and whose family earns not more than 185 per cent of the federal poverty guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2004 and fiscal year 2005, the Department shall distribute funds first to recipients of funds under the program in the previous fiscal year and the balance to new recipients. Awards under this section shall be distributed on a per-pupil basis, which the Department may adjust so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services, as defined by the Department, reported on the first day of December or the first business day following that date equals the amount allocated under division (A) of this section. The Department may increase the per-pupil amount by a

reasonable percentage for inflation, to be determined by the Department.

The Department may reallocate unobligated or unspent money to participating school districts for purposes of program expansion, improvement, or special projects to promote quality and innovation.

(E) Costs for developing and administering a preschool program may not exceed fifteen per cent of the total approved costs of the program.

All recipients of funds shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained therefrom, shall be under the authority of the approved recipient for purposes provided in the program unless, as described in division (J) of this section, a preschool program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or program performance standards. The approved recipient shall administer and use such property and funds for the purposes specified.

(F) The Department shall prescribe target levels for critical performance indicators for the purpose of assessing public preschool programs. On-site reviews and follow-up visits shall be based on progress in meeting the prescribed target levels.

(G) The Department may examine a recipient's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the Head Start performance standards or exhibits below average performance as measured against the performance indicators outlined in division (F) of this section, the preschool program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the school district board of education and the appropriate grantee official. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the public preschool program. The Department may withhold funding pending corrective action. If a public preschool program fails to satisfactorily complete a corrective action plan, the Department may either deny expansion funding to the program or withdraw all or part of the public preschool funding from the agency and establish a new state-funded agency through a competitive bidding process established by the Department.

(H) The department shall require public preschool programs to document child progress, using research-based indicators as prescribed by the department, and report results annually. The department shall determine the dates for documenting and reporting.

(I) Each school district shall develop a sliding fee scale based on family incomes in the district and shall charge families who earn more than the federal poverty guidelines for preschool.

(J) If a public preschool program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or program performance standards, the grantee and delegate shall transfer control of title to property, equipment, and remaining supplies obtained through the program to designated grantees and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the competitive bidding process established by the Department.

SECTION 41.03. PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 200-410, Professional Development, \$5,200,000 in fiscal year 2004 shall be used by the Department of Education to support a statewide comprehensive system of regional professional development centers that support local educators' ability to foster academic achievement in the students they serve. Of the foregoing appropriation item 200-410, Professional Development, \$5,200,000 in fiscal year 2005 shall be used by the regional education delivery system. Before releasing these funds in fiscal year 2005, the Department of Education shall submit a spending plan to the Controlling Board. The release of the funds is contingent on Controlling Board approval of the spending plan. Both the regional professional development centers in fiscal year 2004 and the regional education delivery system in fiscal year 2005 shall include training that assists educators, school leadership, and technical assistance providers in understanding and implementing standards-based education, data analysis, and development of assessment systems for quality instruction.

Of the foregoing appropriation item 200-410, Professional Development, \$7,079,625 in fiscal year 2004 and \$7,329,625 in fiscal year 2005 shall be used by the Department of Education to provide grants to pay

\$2,000 of the application fee in order to assist teachers from public and chartered nonpublic schools applying for the first time to the National Board for Professional Teaching Standards for professional teaching certificates or licenses that the board offers. This set aside shall also be used to recognize and reward teachers who become certified by the National Board for Professional Teaching Standards pursuant to section 3319.55 of the Revised Code. Up to \$300,000 in each fiscal year of this set aside may be used by the Department to pay for costs associated with activities to support candidates through the application and certification process.

These moneys shall be used to pay up to the first 500 applications in fiscal year 2004 and the first 400 applications in fiscal year 2005 received by the Department.

Of the foregoing appropriation item 200-410, Professional Development, up to \$10,442,358 in each fiscal year shall be allocated for entry year programs. These funds shall be used to support mentoring services and performance assessments of beginning teachers in school districts and chartered nonpublic schools.

Of the foregoing appropriation item 200-410, Professional Development, up to \$188,090 in each fiscal year shall be used to provide technical assistance and grants for districts to develop local knowledge/skills-based compensation systems. Each district receiving grants shall issue an annual report to the Department of Education detailing the use of the funds and the impact of the system developed by the district.

Of the foregoing appropriation item 200-410, Professional Development, up to \$670,000 in each fiscal year shall be used for training and professional development of school administrators, school treasurers, and school business officials.

Of the foregoing appropriation item 200-410, Professional Development, \$144,000 in each fiscal year shall be used by the Department of Education to develop a supply and demand report that describes the availability of quality educators and critical educator shortage areas in Ohio.

Of the foregoing appropriation item 200-410, Professional Development, \$1,056,000 in each fiscal year shall be used for educator recruitment programs targeting special need areas, including recruiting highly qualified minority candidates into teaching, recruiting prospective mathematics and science teachers, and targeting other areas of special need.

Of the foregoing appropriation item 200-410, Professional Development, \$60,000 in fiscal year 2004 and \$70,000 in fiscal year 2005 shall be used to support the Ohio University Leadership Program.

Of the foregoing appropriation item 200-410, Professional

Development, \$4,650,000 in each fiscal year shall be allocated by the Department of Education on a per pupil basis, to school districts in academic emergency. These funds shall be used by the districts to provide an equivalent of five days of ongoing embedded professional development for classroom teachers who provide instruction in the subject areas of reading, writing, mathematics, science, or social studies to students enrolled in the ninth or tenth grade. This professional development shall focus on developing subject competency, developing cultural competency, developing skills for analyzing test data, and developing data-based intervention strategies to prepare students below grade level to pass the Ohio Graduation Test. Districts shall submit a research-based, professional development plan for five days of embedded professional development to the Department of Education prior to receiving funds. The plan shall detail how ninth and tenth grade teachers will learn and implement classroom strategies for students to reach state standards in mathematics, reading, writing, social studies, and science.

SECTION 41.04. TECHNICAL SYSTEMS DEVELOPMENT

The foregoing appropriation item 200-420, Technical Systems Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and customer service of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators.

ALTERNATIVE EDUCATION PROGRAMS

There is hereby created the Alternative Education Advisory Council, which shall consist of one representative from each of the following agencies: the Ohio Department of Education; the Department of Youth Services; the Ohio Department of Alcohol and Drug Addiction Services; the Department of Mental Health; the Office of the Governor or, at the Governor's discretion, the Office of the Lieutenant Governor; the Office of the Attorney General; and the Office of the Auditor of State.

Of the foregoing appropriation item 200-421, Alternative Education Programs, not less than \$7,529,274 in each fiscal year shall be used for the renewal of successful implementation grants and for competitive matching grants to the 21 urban school districts as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998, and not less

than \$7,494,820 in each fiscal year shall be used for the renewal of successful implementation of grants and for competitive matching grants to rural and suburban school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs where the grant would not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$75,000 in each fiscal year shall be used to support the Toledo Tech Academy.

Of the foregoing appropriation item 200-421, Alternative Education Programs, up to \$449,235 in each fiscal year may be used for program administration, monitoring, technical assistance, support, research, and evaluation. Any unexpended balance may be used to provide additional matching grants to urban, suburban, or rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$287,218 in each fiscal year shall be used to contract with the Center for Learning Excellence at The Ohio State University to provide technical support for the project and the completion of formative and summative evaluation of the grants.

Of the foregoing appropriation item 200-421, Alternative Education Programs, \$300,000 in each fiscal year shall be used to support Amer-I-Can. Of this set-aside, no funds shall be disbursed without approval of the Controlling Board. Amer-I-Can programs shall submit to the Controlling Board a biennial spending plan that delineates how these funds will be spent. Amer-I-Can programs also shall demonstrate to the Controlling Board that they have hired an independent evaluator and have selected valid and reliable instruments to assess pre and post changes in student behavior.

SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200-422, School Management Assistance, \$351,000 in each fiscal year shall be used by the Auditor of State for expenses incurred in the Auditor of State's role relating to fiscal caution activities as defined in Chapter 3316. of the Revised Code. Expenses include duties related to the completion of performance audits for school districts that the Superintendent of Public Instruction determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal watch and fiscal emergency provisions under Chapter 3316. of the Revised Code.

POLICY ANALYSIS

The foregoing appropriation item 200-424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200-425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development,

assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200-426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$18,592,763 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist data acquisition sites or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, or any community school established under Chapter 3314. of the Revised Code, or any educational service center building used for instructional purposes, or the Ohio School for the Deaf and the Ohio School for the Blind, or high schools chartered by the Ohio Department of Youth Services and high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to \$1,884,355 in each fiscal year shall be used for the Union Catalog and InfOhio Network.

The Department of Education shall use up to \$3,412,500 in each fiscal year to assist designated data acquisition sites with operational costs associated with the increased use of the state's education network by chartered nonpublic schools. The Department of Education shall use the same per building amount as used to provide connectivity subsidy funds to public school buildings.

The remainder of appropriation item 200-426, Ohio Educational Computer Network, shall be used to support development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. The technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. Program funds

may be used, through a formula and guidelines devised by the department, to subsidize the activities of designated data acquisition sites, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems. To broaden the scope of the use of technology for education, the Department may use up to \$223,762 in each fiscal year to coordinate the activities of the computer network with other agencies funded by the department or the state. In order to improve the efficiency of network activities, the department and data acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the department, may utilize the services of appropriate state purchasing agencies.

ACADEMIC STANDARDS

Of the foregoing appropriation item 200-427, Academic Standards, up to \$731,250 in each fiscal year shall be used to provide funds to school districts that have one or more teachers participating in the teachers-on-loan program.

The remainder of appropriation item 200-427, Academic Standards, shall be used by the Department of Education to develop and communicate to school districts academic content standards and curriculum models. The Department of Education shall communicate these standards and curricula to school districts primarily through Internet website postings and electronic mail.

SECTION 41.05. SCHOOL IMPROVEMENT INITIATIVES

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$10,505,625 in each fiscal year shall be used to provide technical assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code to provide support to districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$350,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city

students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$50,000 in each fiscal year shall be used to support LEAF.

READING/WRITING/MATH IMPROVEMENT

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$12,675,000 in each fiscal year shall be used for professional development in literacy for classroom teachers, administrators, and literacy specialists, and to provide intensive summer training for mathematics teachers.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, \$250,000 in each fiscal year shall be used to continue the Waterford Early Reading Program.

Of the foregoing appropriation item 200-433, Reading/Writing/Math Improvement, up to \$1,000,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this appropriation item also may be used to conduct evaluations of the impact and effectiveness of Reading Recovery and other reading improvement programs.

The remainder of appropriation item 200-433, Reading/Writing/Math Improvement, shall be used to support standards-based classroom reading and writing instruction and reading intervention and the design/development of standards-based literacy curriculum materials; to support literacy professional development partnerships between the Department of Education, higher education institutions, the literacy specialists project, the Ohio principals' literacy network, regional literacy teams, literacy networks, and school districts.

STUDENT ASSESSMENT

Of the foregoing appropriation item 200-437, Student Assessment, \$500,000 in fiscal year 2004 and \$100,000 in fiscal year 2005 shall be used by the Department of Education to train school district personnel to score the practice version of the Ohio Graduation Test to be taken by students enrolled in the ninth grade in school districts in academic watch or academic emergency pursuant to sections 3301.0710 and 3301.0711 of the Revised Code.

The remainder of appropriation item 200-437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710 and 3301.0711 of the Revised Code and for similar purposes as

required by section 3301.27 of the Revised Code.

ACCOUNTABILITY/REPORT CARDS

The foregoing appropriation item 200-439, Accountability/Report Cards, shall be used for the development of an accountability system that includes the preparation and distribution of school report cards pursuant to section 3302.03 of the Revised Code.

AMERICAN SIGN LANGUAGE

Of the foregoing appropriation item 200-441, American Sign Language, up to \$136,943 in each fiscal year shall be used to implement pilot projects for the integration of American Sign Language deaf language into the kindergarten through twelfth-grade curriculum.

The remainder of the appropriation shall be used by the Department of Education to provide supervision and consultation to school districts in dealing with parents of children who are deaf or hard of hearing, in integrating American Sign Language as a foreign language, and in obtaining interpreters and improving their skills.

CHILD CARE LICENSING

The foregoing appropriation item 200-442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs in accordance with sections 3301.52 to 3301.59 of the Revised Code.

OHIOREADS ADMIN/VOLUNTEER SUPPORT

The foregoing appropriation item 200-445, OhioReads Admin/Volunteer Support, may be allocated by the OhioReads Office in the Department of Education at the direction of the OhioReads Council for volunteer coordinators in public school buildings, to educational service centers for costs associated with volunteer coordination, for background checks for volunteers, to evaluate the OhioReads Program, and for operating expenses associated with administering the program.

SECTION 41.06. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200-446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$1,295,857 in each fiscal year shall be distributed to designated data acquisition sites for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software

development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Of the foregoing appropriation item 200-446, Education Management Information System, up to \$8,055,189 in each fiscal year shall be distributed on a per-pupil basis to school districts, community schools established under Chapter 3314. of the Revised Code, education service centers, joint vocational school districts, and any other education entity that reports data through EMIS. From this funding, each school district or community school established under Chapter 3314. of the Revised Code with enrollment greater than 100 students and each vocational school district shall receive a minimum of \$5,000 in each fiscal year. Each school district or community school established under Chapter 3314. of the Revised Code with enrollment between one and one hundred and each education service center and each county board of MR/DD that submits data through EMIS shall receive \$3,000 in each fiscal year. This subsidy shall be used for costs relating to reporting, processing, storing, transferring, and exchanging data necessary to meet requirements of the Department of Education's data system.

Of the foregoing appropriation item 200-446, Education Management Information System, \$782,500 in each fiscal year shall be used by the Department of Education, in consultation with an advisory group of school districts, community schools, and other education-related entities, for the development and implementation of a common core of Education Management Information System data definitions and data format standards. Once these definitions and standards have been developed, they shall be approved by the Education Data Advisory Council. Once the standards are approved by the Education Data Advisory Council, any software meeting the standards shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, data acquisition centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts and community schools shall implement a common and uniform set of data definitions and data format standards for Education Management Information System purposes by July 1, 2004. The Department of Education shall work with data acquisition sites and their member school districts and community schools to implement those uniform standards. School districts and community schools that do not adopt and implement the uniform data definitions and standards by July 1, 2004, as jointly determined by the Department of Education software development team and the advisory group shall have all EMIS funding withheld until they are in compliance.

GED TESTING/ADULT HIGH SCHOOL

The foregoing appropriation item 200-447, GED Testing/Adult High School, shall be used to provide General Educational Development (GED) testing at no cost to applicants, pursuant to rules adopted by the State Board of Education. The Department of Education shall reimburse school districts and community schools, created in accordance with Chapter 3314. of the Revised Code, for a portion of the costs incurred in providing summer instructional or intervention services to students who have not graduated due to their inability to pass one or more parts of the state's ninth grade proficiency test. School districts shall also provide such services to students who are residents of the district pursuant to section 3313.64 of the Revised Code, but who are enrolled in chartered, nonpublic schools. The services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off the nonpublic school premises. No school district shall provide summer instructional or intervention services to nonpublic school students as authorized by this section unless such services are available to students attending the public schools within the district. No school district shall provide services for use in religious courses, devotional exercises, religious training, or any other religious activity. Chartered, nonpublic schools shall pay for any unreimbursed costs incurred by school districts for providing summer instruction or intervention services to students enrolled in chartered, nonpublic schools. School districts may provide these services to students directly or contract with postsecondary or nonprofit community-based institutions in providing instruction. The appropriation also shall be used for state reimbursement to school districts for adult high school continuing education programs pursuant to section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code.

EDUCATOR PREPARATION

The foregoing appropriation item 200-448, Educator Preparation, shall be used by the Ohio Teacher Education and Licensure Advisory Commission to carry out the responsibilities of the 21-member Ohio Teacher Education and Licensure Advisory Commission. The advisory commission is charged by the State Board of Education with considering all matters related to educator preparation and licensure, including standards for educator preparation and licensure, approval of institutions and programs, and recommending decisions to the State Board of Education.

TITLE IV-A HEAD START AND TITLE IV-A HEAD START PLUS START UP

The foregoing appropriation item 200-449, Head Start/Head Start Plus Start Up, shall be used to provide start up grants for Title IV-A reimbursable funding for the provision of services to children eligible for Title IV-A services. In fiscal year 2004, these grants shall be provided to Title IV-A Head Start agencies. In fiscal year 2005, these grants shall be provided to Title IV-A Head Start agencies and Title IV-A Head Start Plus agencies. The amount of each grant shall be determined by the Department of Education. Funds appropriated for this purpose shall be reimbursed to the General Revenue Fund when the Title IV-A Head Start or Title IV-A Head Start Plus programs cease or are no longer funded from Title IV-A. If one program ceases or is no longer funded with Title IV-A funds, the General Revenue Fund will be reimbursed for that program.

If a Title IV-A Head Start agency or Title IV-A Head Start Plus agency chooses not to participate in the program or if the Department of Education suspends or terminates part or all of its funding, reimbursement owed to the grantee shall be held by the Department of Education up to the amount of the grant owed by the grantee. If insufficient reimbursement is available to recover the amount owed by the grantee, the grantee shall return the remaining balance within 60 days of the date of the decision not to participate, the suspension, or the termination. Funding recovered from such grantees shall be used by the Department of Education for supplying grants to new grantees for Title IV-A reimbursable funding for provision of services to children eligible for Title IV-A services. Any funding remaining when the Title IV-A Head Start and the Title IV-A Head Start Plus programs cease or are no longer funded with Title IV-A funds shall be returned to the General Revenue Fund.

The Title IV-A Head Start Plus agency that is receiving funds to operate a Head Start program in accordance with section 3301.35 of the Revised Code shall provide the program through contracts with child care providers licensed or certified in accordance with Chapter 5104. of the Revised Code.

If a licensed or certified child care provider is not in operation or willing to participate and if eligible families are in need of full-day and full-year Head Start and child care services, the Title IV-A Head Start Plus agency may be the sole source provider.

TEACHING SUCCESS COMMISSION INITIATIVES

The foregoing appropriation item 200-452, Teaching Success Commission Initiatives, shall be used by the Department of Education to support initiatives recommended by the Governor's Commission on Teaching Success.

COMMUNITY SCHOOLS

Of the foregoing appropriation item 200-455, Community Schools, up to \$1,308,661 in each fiscal year may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code.

Of the foregoing appropriation item 200-455, Community Schools, up to \$250,000 in each fiscal year may be used by the Department of Education for developing and conducting training sessions for sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code. In developing such training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

The remaining appropriation may be used by the Department of Education to make grants of up to \$50,000 to each proposing group with a preliminary agreement obtained under division (C)(2) of section 3314.02 of the Revised Code in order to defray planning and initial start-up costs. In the first year of operation of a community school, the Department of Education may make a grant of not more than \$100,000 to the governing authority of the school to partially defray additional start-up costs. The amount of the grant shall be based on a thorough examination of the needs of the community school. The Department of Education shall not utilize moneys received under this section for any other purpose other than those specified under this section.

A community school awarded start-up grants from appropriation item 200-613, Public Charter Schools (Fund 3T4), shall not be eligible for grants under this section.

SECTION 41.07. SCHOOL FINANCE EQUITY

The foregoing appropriation item 200-500, School Finance Equity, shall be distributed to school districts based on the formula specified in section

3317.0213 of the Revised Code.

SECTION 41.08. BASE COST FUNDING

The foregoing appropriation item 200-501, Base Cost Funding, includes \$90,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd General Assembly. This amount represents the total state education aid offset due to the valuation change for school districts and joint vocational school districts from all relevant appropriation line item sources. If it is determined that the state education aid offset is more than \$90,000,000, the Controlling Board may increase the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount if presented with such a request from the Department of Education. The appropriation increase, if any, is hereby appropriated. If it is determined that the state education aid offset is less than \$90,000,000, the Director of Budget and Management shall then reduce the appropriation for appropriation item 200-501, Base Cost Funding, by the difference amount and notify the Controlling Board of this action. The appropriation decrease determined by the Director of Budget and Management, if any, is hereby approved, and appropriations are hereby reduced by the amount determined.

Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$425,000 shall be expended in each fiscal year for court payments pursuant to section 2151.357 of the Revised Code; an amount shall be available in each fiscal year for the cost of reappraisal guarantee pursuant to section 3317.04 of the Revised Code; an amount shall be available in each fiscal year to fund up to 225 full-time equivalent approved GRADS teacher grants pursuant to division (R) of section 3317.024 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (A)(2) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (F) of section 3317.022 of the Revised Code; an amount shall be available in each fiscal year to make payments to school districts pursuant to division (C) of section 3317.0212 of the Revised Code; and up to \$15,000,000 in each fiscal year shall be reserved for payments pursuant to sections 3317.026, 3317.027, and 3317.028 of the Revised Code except that the Controlling Board may increase the \$15,000,000 amount if presented with such a request from the Department of Education. Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$15,000,000 in each fiscal year shall be used to provide additional state aid to school districts for special education students pursuant

to division (C)(3) of section 3317.022 of the Revised Code; up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments pursuant to section 3317.024 of the Revised Code; and up to \$52,000,000 in each fiscal year shall be reserved to fund the state reimbursement of educational service centers pursuant to section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be available for special education weighted funding pursuant to division (C)(1) of section 3317.022 and division (D)(1) of section 3317.16 of the Revised Code.

Of the foregoing appropriation item 200-501, Base Cost Funding, an amount shall be available in each fiscal year to be used by the Department of Education for transitional aid for school districts. Funds shall be distributed pursuant to the section of this act entitled "TRANSITIONAL AID."

Of the foregoing appropriation item 200-501, Base Cost Funding, up to \$1,000,000 in each fiscal year shall be used by the Department of Education for a pilot program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section titled "Private Treatment Facility Pilot Project."

The remaining portion of appropriation item 200-501, Base Cost Funding, shall be expended for the public schools of city, local, exempted village, and joint vocational school districts, including base cost funding, special education speech service enhancement funding, career-technical education weight funding, career-technical education associated service funding, guarantee funding, and teacher training and experience funding pursuant to sections 3317.022, 3317.023, 3317.0212, and 3317.16 of the Revised Code.

Appropriation items 200-500, School Finance Equity, 200-501, Base Cost Funding, 200-502, Pupil Transportation, 200-520, Disadvantaged Pupil Impact Aid, 200-521, Gifted Pupil Program, 200-525, Parity Aid, and 200-546, Charge-Off Supplement, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts and joint vocational school districts pursuant to Chapter 3317. of the Revised Code. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations under Chapter 3317. of the Revised Code. It may be necessary to reallocate funds among these appropriation items in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items to meet state formula aid obligations,

the Department of Education shall seek approval from the Controlling Board to transfer funds among these appropriation items.

SECTION 41.09. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200-502, Pupil Transportation, up to \$822,400 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$56,975,910 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county MR/DD boards for transportation operating costs as provided in division (M) of section 3317.024 of the Revised Code. The remainder of appropriation item 200-502, Pupil Transportation, shall be used for the state reimbursement of public school districts' costs in transporting pupils to and from the school they attend in accordance with the district's policy, State Board of Education standards, and the Revised Code.

BUS PURCHASE ALLOWANCE

The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts, educational service centers, and county MR/DD boards pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 28 per cent of the amount appropriated may be used to reimburse school districts and educational service centers for the purchase of buses to transport handicapped and nonpublic school students and to county MR/DD boards, the Ohio School for the Deaf, and the Ohio School for the Blind for the purchase of buses to transport handicapped students.

SCHOOL LUNCH MATCH

The foregoing appropriation item 200-505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

SECTION 41.10. ADULT LITERACY EDUCATION

The foregoing appropriation item 200-509, Adult Literacy Education, shall be used to support adult basic and literacy education instructional programs and the State Literacy Resource Center Program.

Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$519,188 in each fiscal year shall be used for the support and operation of the State Literacy Resource Center.

Of the foregoing appropriation item 200-509, Adult Literacy Education,

\$146,250 in each fiscal year shall be used to support initiatives for English as a second language programs in combination with citizenship. Funding shall be provided to organizations that received such funds during fiscal year 2003 from appropriation item 200-570, School Improvement Incentive Grants.

The remainder of the appropriation shall be used to continue to satisfy the state match and maintenance of effort requirements for the support and operation of the Department of Education-administered instructional grant program for adult basic and literacy education in accordance with the department's state plan for adult basic and literacy education as approved by the State Board of Education and the Secretary of the United States Department of Education.

AUXILIARY SERVICES

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,462,500 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students pursuant to section 3365.10 of the Revised Code.

STUDENT INTERVENTION SERVICES

Of the foregoing appropriation item 200-513, Student Intervention Services, \$3,700,000 in fiscal year 2004 and \$5,900,000 in fiscal year 2005 shall be allocated by the Department of Education, on a per pupil basis, to school districts in academic emergency. Districts shall use these funds for salaries, materials, and training to provide after-school, in-school, Saturday school, summer school, or other related intervention programs to students as specified in division (D)(2) of section 3301.0711 of the Revised Code. In fiscal year 2004 these programs shall be provided to students enrolled in the ninth grade. In fiscal year 2005, these programs shall be provided to students enrolled in the ninth and tenth grades. At the end of each fiscal year, the school districts receiving these funds shall report to the Department of Education the number of students who were offered intervention, the number of students who participated, and the number of students who completed the intervention program, and shall provide an evaluation of the impact of the intervention on students.

Of the foregoing appropriation item 200-513, Student Intervention Services, \$150,000 in each fiscal year shall be used for Read Baby Read.

The remainder of appropriation item 200-513, Student Intervention Services, shall be used to assist districts providing the intervention services specified in section 3313.608 of the Revised Code. The Department of

Education shall establish guidelines for the use and distribution of these moneys. School districts receiving funds from this appropriation shall report to the Department of Education on how funds were used.

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION

Of the foregoing appropriation item 200-514, Postsecondary Adult Career-Technical Education, \$40,000 in each fiscal year shall be used for the statewide coordination of the activities of the Ohio Young Farmers.

The remainder of appropriation item 200-514, Postsecondary Adult Career-Technical Education, shall be used by the State Board of Education to provide postsecondary adult career-technical education under sections 3313.52 and 3313.53 of the Revised Code.

DISADVANTAGED PUPIL IMPACT AID

Notwithstanding the distribution formula outlined in section 3317.029 of the Revised Code, each school district shall receive an additional two per cent in Disadvantaged Pupil Impact Aid (DPIA) funding in fiscal year 2004 over what was received in fiscal year 2003 unless the district receives DPIA funding from the DPIA guarantee provision pursuant to division (B) of section 3317.029 of the Revised Code in fiscal year 2003. For such a district, its DPIA funding in fiscal year 2004 shall equal the amount of DPIA funding the district received in fiscal year 2003.

Notwithstanding the distribution formula outlined in section 3317.029 of the Revised Code, each school district shall receive an additional two per cent in DPIA funding in fiscal year 2005 over what was received in fiscal year 2004 unless the district receives DPIA funding from the DPIA guarantee provision pursuant to division (B) of section 3317.029 of the Revised Code in fiscal year 2003. For such a district, its DPIA funding in fiscal year 2005 shall equal the amount of DPIA funding the district received in fiscal year 2004.

School districts must continue to comply with all expenditure guidelines and restrictions outlined in divisions (F), (G), (I), and (K) of section 3317.029 of the Revised Code by assuming a two per cent increase in funds for each program outlined in divisions (C), (D), and (E) of section 3317.029 of the Revised Code and by assuming a DPIA index equivalent to the index calculated in fiscal year 2003.

The Department of Education shall pay all-day, everyday kindergarten funding to all school districts in each fiscal year that qualified for and provided the service in fiscal year 2003 pursuant to section 3317.029 of the Revised Code. School districts and community schools that did not have a DPIA allocation in fiscal year 2003 shall not receive an allocation in fiscal year 2004 or fiscal year 2005.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to \$3,800,000 in each fiscal year shall be used for school breakfast programs. Of this amount, up to \$1,000,000 shall be used in each fiscal year by the Department of Education for the purpose of increasing participation in child nutrition programs, particularly school breakfast and summer meals. The Department shall collaborate with the Children's Hunger Alliance in the outreach effort. The remainder of the appropriation shall be used to partially reimburse school buildings within school districts that are required to have a school breakfast program pursuant to section 3313.813 of the Revised Code, at a rate decided by the Department.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, \$4,500,000 in fiscal year 2004 and \$6,000,000 in fiscal year 2005 shall be used to operate the school choice program in the Cleveland Municipal School District pursuant to sections 3313.974 to 3313.979 of the Revised Code.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District pursuant to sections 3313.974 to 3313.979 of the Revised Code.

SECTION 41.11. GIFTED PUPIL PROGRAM

The foregoing appropriation item 200-521, Gifted Pupil Program, shall be used for gifted education units not to exceed 1,110 in each fiscal year pursuant to division (P) of section 3317.024 and division (F) of section 3317.05 of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, up to \$5,000,000 each in fiscal year may be used as an additional supplement for identifying gifted students pursuant to Chapter 3324. of the Revised Code.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, the Department of Education may expend up to \$1,000,000 in each fiscal year for the Summer Honors Institute for gifted freshman and sophomore high school students. Up to \$600,000 in each fiscal year shall be used for research and demonstration projects. The Department of Education shall research and evaluate the effectiveness of gifted education programs in Ohio. Up to \$70,000 in each fiscal year shall be used for the Ohio Summer School for the Gifted (Martin Essex Program).

SECTION 41.12. PARITY AID

The foregoing appropriation item 200-525, Parity Aid, shall be distributed to school districts based on the formulas specified in section 3317.0217 of the Revised Code.

NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200-532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 41.13. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$44,204,000 in fiscal year 2004 and up to \$45,441,712 in fiscal year 2005 shall be used to fund special education and related services at county boards of mental retardation and developmental disabilities for eligible students under section 3317.20 of the Revised Code. Up to \$2,452,125 shall be used in each fiscal year to fund special education classroom and related services units at institutions.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$2,906,875 in each fiscal year shall be used for home instruction for children with disabilities; up to \$1,462,500 in each fiscal year shall be used for parent mentoring programs; and up to \$2,783,396 in each fiscal year may be used for school psychology interns.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$3,406,090 in each fiscal year shall be used by the Department of Education to assist school districts in funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 3301-51-04 of the Administrative Code.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$78,384,498 in each fiscal year shall be distributed by the Department of Education to county boards of mental retardation and developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units in accordance with section 3317.161 of the Revised Code. The department may reimburse county boards of mental retardation and developmental disabilities, educational service centers, and school districts for related services as defined in rule 3301-31-05 of the Administrative Code, for preschool occupational and physical therapy services provided by a physical therapy assistant and certified occupational therapy assistant, and for an instructional assistant. To the greatest extent possible, the Department of

Education shall allocate these units to school districts and educational service centers. The Controlling Board may approve the transfer of unallocated funds from appropriation item 200-501, Base Cost Funding, to appropriation item 200-540, Special Education Enhancements, to fully fund existing units as necessary or to fully fund additional units. The Controlling Board may approve the transfer of unallocated funds from appropriation item 200-540, Special Education Enhancements, to appropriation item 200-501, Base Cost Funding, to fully fund the special education weight cost funding.

The Department of Education shall require school districts, educational service centers, and county MR/DD boards serving preschool children with disabilities to document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and methodology shall be determined by the Department.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$315,000 in each fiscal year shall be expended to conduct a demonstration project involving language and literacy intervention teams supporting student acquisition of language and literacy skills. The demonstration project shall demonstrate improvement of language and literacy skills of at-risk learners under the instruction of certified speech pathologists and educators. Baseline data shall be collected and comparison data for fiscal year 2004 and fiscal year 2005 shall be collected and reported to the Governor, Ohio Reads Council, Department of Education, and the General Assembly.

Of the foregoing appropriation item 200-540, Special Education Enhancements, up to \$500,000 in each fiscal year shall be used for the Research-Based Reading Mentoring Program.

Of the foregoing appropriation item 200-540, Special Education Enhancements, \$600,000 in each fiscal year shall be used to support the Bellefaire Jewish Children's Bureau.

SECTION 41.14. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,576,107 in each fiscal year shall be used to fund career-technical education units at institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,925,000 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs.

These grant funds shall be used to directly support expanded tech prep programs, including equipment, provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$2,225,000 in each fiscal year shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the instruction of students in job skills taught as part of a career-technical program or programs approved for such instruction by the State Board of Education. School districts replacing or updating career-technical education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of full-time equivalent workforce development teachers in all eligible districts making application for funds.

The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted under either process shall be provided to a school district at 30, 40, or 50 per cent of cost on the basis of a rating developed by the Department of Education using the state share percentage as provided in division (B)(2) of section 3317.022 of the Revised Code.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,650,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. It provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$2,400,000 in each fiscal year shall be used for K-12 career development.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$496,800 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries,

rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the \$300,000 set aside.

SECTION 41.15. CHARGE-OFF SUPPLEMENT

The foregoing appropriation item 200-546, Charge-Off Supplement, shall be used by the Department of Education to make payments pursuant to section 3317.0216 of the Revised Code.

EMERGENCY LOAN INTEREST SUBSIDY

The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.

SECTION 41.16. OHIOREADS GRANTS

Of the foregoing appropriation item 200-566, OhioReads Grants, the OhioReads Office in the Department of Education shall use \$2,125,223 in fiscal year 2004 and \$2,167,728 in fiscal year 2005 to fund the STARS program.

The remainder of the foregoing appropriation item 200-566, OhioReads Grants, shall be disbursed by the OhioReads Office in the Department of Education at the direction of the OhioReads Council to provide grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through fourth grade students to support local reading literacy initiatives including reading programs, materials, professional development, tutoring, tutor recruitment and training, and parental involvement.

Grants awarded by the OhioReads Council are intended to improve reading outcomes, especially on reading proficiency tests.

SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$20,000 in each fiscal year may be used by schools for the Eddie Eagle Gun Safety Pilot Program. School districts wishing to participate in the pilot program shall apply to the Department of Education under guidelines established by the Superintendent of Public Instruction.

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$1,800,000 in each fiscal year shall be used for a safe school help line.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs.

SECTION 41.17. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred due to the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption - Education, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. In cooperation with the Department of Taxation, the

Department of Education shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer pursuant to division (G) of section 321.24 of the Revised Code, for all school districts located in the county, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Department of Education among the appropriate school districts.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and 200-906, Tangible Tax Exemption - Education, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 41.18. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200-681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer teacher certification and licensure functions pursuant to sections 3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 3319.51 of the Revised Code.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

Of the foregoing appropriation item 200-687, School District Solvency Assistance, \$9,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$9,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent pursuant to section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H3).

SECTION 41.19. HEAD START PLUS/HEAD START

There is hereby established the Title IV-A Head Start Program to be administered by the Department of Education in accordance with an interagency agreement entered into with the Department of Job and Family Services under division (A)(2) of section 5101.801 of the Revised Code. The program shall provide benefits and services to TANF eligible individuals pursuant to the requirements of section 5101.801 of the Revised Code. Upon approval by the Department of Job and Family Services, the Department of Education shall adopt policies and procedures establishing program requirements for eligibility, services, fiscal accountability, and other criteria necessary to comply with the provisions of Title IV-A of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

The foregoing appropriation item 200-663, Head Start Plus/Head Start, shall be used to reimburse Title IV-A Head Start Plus and Title IV-A Head Start programs for services to children. The Department of Education shall administer the Title IV-A Head Start Plus and Title IV-A Head Start programs in accordance with an interagency agreement between the Departments of Education and Job and Family Services. Title IV-A Head Start Plus and Title IV-A Head Start providers shall meet all requirements as outlined in section 3301.311 of the Revised Code. The Department of Education shall adopt policies and procedures to establish a procedure for approving Title IV-A Head Start Plus and Title IV-A Head Start agencies.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$57,170,000 in fiscal year 2004 shall be used to support the Title IV-A Head Start program. Up to two percent of this amount may be used by the Department of Education to provide associated program support and technical assistance.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$83,457,126 in fiscal year 2005 shall be used to support the Title IV-A Head Start Plus initiative. Title IV-A Head Start Plus shall provide up to 10,000 slots of full-day, full-year programming for children at least three years of age and not kindergarten age eligible. The program shall meet the child care needs of low-income families who meet eligibility requirements established in rules and administrative orders adopted by the Ohio Department of Job and Family Services and provide early education and comprehensive services as provided through the Head Start program before the enactment of this act.

Of the foregoing appropriation item 200-663, Head Start Plus/Head Start, up to \$22,763,177 in fiscal year 2005 shall be used to support the Title

IV-A Head Start program. This funding shall be used to support up to 4,000 slots of traditional half-day center-based, home-based, combination, or locally-designed option, Title IV-A Head Start services.

Of the foregoing appropriation line item 200-663, Head Start Plus/Head Start, up to \$1,963,697 in fiscal year 2005 may be used by the Department of Education to provide associated program support and technical assistance.

For purposes of this section, "eligible child" means a child who is at least three years of age, has not entered kindergarten, and is not of compulsory school age whose family earns not more than 100 per cent of the federal poverty level, except as otherwise provided in the following paragraph.

The Department of Education, in consultation with Title IV-A Head Start agencies and, beginning in July 1, 2004, Title IV-A Head Start Plus agencies, shall establish criteria under which these agencies may apply to the Department for a waiver to include as "eligible children" those children from families earning up to the level of eligibility established for child care subsidy by the Department of Job and Family Services who otherwise qualify as "eligible children" under the preceding paragraph.

In fiscal year 2004, in order to serve children whose families receive child care subsidy and whose incomes do not exceed the income eligibility requirement for child care subsidy, Title IV-A Head Start agencies may enroll children whose families receive this child care subsidy from the Ohio Department of Job and Family Services, if they partner with child care centers or family day care homes, where appropriate. This provision is to meet the child care needs of low-income families who are working, in training or education programs, or participating in Ohio Works First approved activities.

The Department of Education shall conduct a head count of the number of children served by Head Start agencies under this program in December 2003 and in December 2004. Any funding appropriated to this program in fiscal year 2005, which the Department of Education projects is not necessary to provide services to children enrolled as of the head count taken in December 2004 shall be returned to the Department of Job and Family Services for use as child care assistance.

The Department of Education shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Title IV-A Head Start Plus and Title IV-A Head Start providers, and other interested parties regarding the Title IV-A Head Start Plus and Title IV-A Head Start program and performance

indicators as outlined by the Department of Education.

JOBS FOR OHIO GRADUATES PROGRAM

Pursuant to an interagency agreement entered into between the Department of Job and Family Services and the Department of Education, \$3,500,000 from Workforce Investment Act funds (Fund 3V0), reserved for statewide workforce investment activities, in fiscal year 2004 and fiscal year 2005, shall be used to support the Jobs for Ohio Graduates programs administered by the Department of Education.

AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2004 within thirty days after the effective date of this section and \$1,500,000 in fiscal year 2005 by August 1, 2004, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

SECTION 41.20. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200-612, Base Cost Funding (Fund 017), shall be used in conjunction with appropriation item 200-501, Base Cost Funding (GRF), to provide payments to school districts pursuant to Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-501, Base Cost Funding (GRF), and appropriation item 200-612, Base Cost Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the appropriation item 230-428, Lease Rental Payments (GRF), of the School Facilities Commission.

* LOTTERY PROFITS TRANSFERS

On or before the first day of May of each fiscal year, the Director of Budget and Management shall determine if lottery profits transfers will meet the appropriation amounts from the Lottery Profits Education Fund.

SECTION 41.21. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. At no time shall the amount to the credit of the fund exceed \$75,000,000. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. Notwithstanding any provisions of law to the contrary, for fiscal years 2004 and 2005, there is appropriated to the Department of Education, from the Lottery Profits Education Reserve Fund, an amount necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised Code. All loan repayments from loans made in fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be deposited into the credit of the Lottery Profits Education Reserve Fund.

(B)(1) On or before July 15, 2003, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2003 exceed \$637,722,600. The amount so certified shall be distributed in fiscal year 2004 pursuant to division (C) of this section.

(2) On or before July 15, 2004, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2004 exceed \$637,900,000. The amount so determined shall be distributed in fiscal year 2005 pursuant to division (D) of this section.

The Director of Budget and Management shall annually certify the amounts determined pursuant to this section to the Speaker of the House of Representatives and the President of the Senate.

(C) In fiscal year 2004, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits of \$637,722,600 in fiscal year 2003 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2004. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(D) In fiscal year 2005, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits

transfers of \$637,900,000 in fiscal year 2004 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 2005. Any amounts exceeding \$75,000,000 shall be distributed pursuant to division (E) of this section.

(E) In the appropriate fiscal year, any remaining amounts after the operations required by division (C) or (D) of this section, respectively, shall be transferred to the Public School Building Fund (Fund 021) and such amount is appropriated to appropriation item CAP-622, Public School Buildings, in the School Facilities Commission.

SECTION 41.22. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT

The foregoing appropriation item 200-900, School District Property Tax Replacement, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts pursuant to section 5727.85 of the Revised Code.

SECTION 41.23. * DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 41.24. DISTRIBUTION - SCHOOL DISTRICT SUBSIDY PAYMENTS

This section shall not take effect unless the Director of Budget and Management adopts an order putting it into effect and certifies a copy of the order to the Superintendent of Public Instruction and the Controlling Board.

Notwithstanding any other provision of the Revised Code, the monthly distribution of payments made to school districts and educational service centers pursuant to section 3317.01 of the Revised Code for the first six months of each fiscal year shall equal, as nearly as possible, six and two-thirds per cent of the estimate of the amounts payable for each fiscal year. The monthly distribution of payments for the last six months of each fiscal year shall equal, as nearly as possible, ten per cent of the final calculation of the amounts payable to each school district for that fiscal year.

The treasurer of each school district or educational service center may accrue, in addition to the payments defined in this section, to the accounts of the calendar years that end during each fiscal year, the difference between the sum of the first six months' payments in each fiscal year and the amounts the district would have received had the payments been made in, as nearly as possible in each fiscal year, twelve equal monthly payments.

Notwithstanding the limitations on the amount of borrowing and time of payment provided for in section 133.10 of the Revised Code but subject to sections 133.26 and 133.30 of the Revised Code, a board of education of a school district may at any time between July 1, 2003, and December 31, 2003, or at any time between July 1, 2004, and December 31, 2004, borrow money to pay any necessary and actual expenses of the school district during the last six months of calendar years 2003 and 2004 and in anticipation of the receipt of any portion of the payments to be received by that district in the first six months of calendar years 2004 and 2005 representing the respective amounts accrued pursuant to the preceding paragraph, and issue notes to evidence that borrowing to mature not later than the thirtieth day of June of the calendar year following the calendar year in which such amount was borrowed. The principal amount borrowed in the last six months of calendar years 2003 or 2004 under this paragraph may not exceed the entire amount accrued or to be accrued by the district treasurer in those calendar years pursuant to the preceding paragraph. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts are lawfully appropriated by the board of education. No board of education shall be required to use the authority granted by this paragraph. The receipts so anticipated, and additional amounts from distributions to the districts in the first six months of calendar years 2004 and 2005 pursuant to Chapter 3317. of the Revised Code needed to pay the interest on the notes, shall be deemed appropriated by the board of education to the extent necessary for the payment of the principal of and interest on the notes at maturity, and the amounts necessary to make those monthly distributions are appropriated from the General Revenue Fund. For the

purpose of better ensuring the prompt payment of principal of and interest on the notes when due, the resolution of the board of education authorizing the notes may direct that the amount of the receipts anticipated, together with those additional amounts needed to pay the interest on the borrowed amounts, shall be deposited and segregated, in trust or otherwise, to the extent, at the time or times, and in the manner provided in that resolution. The borrowing authorized by this section does not constitute debt for purposes of section 133.04 of the Revised Code. School districts shall be reimbursed by the state for all necessary and actual costs to districts arising from this provision, including, without limitation, the interest paid on the notes while the notes are outstanding. The Department of Education shall adopt rules that are not inconsistent with this section for school district eligibility and application for reimbursement of such costs. Payments of these costs shall be made out of any anticipated balances in appropriation items distributed under Chapter 3317. of the Revised Code. The department shall submit all requests for reimbursement under these provisions to the Controlling Board for approval.

During the last six months of each calendar year, instead of deducting the amount the Superintendent of Public Instruction would otherwise deduct from a school district's or educational service center's state aid payments in accordance with the certifications made for such year pursuant to sections 3307.56 and 3309.51 of the Revised Code, the superintendent shall deduct an amount equal to forty per cent of the amount so certified. The secretaries of the retirement systems shall compute the certifications for the ensuing year under such sections as if the entire amounts certified as due in the calendar year ending the current fiscal year, but not deducted pursuant to this paragraph, had been deducted and paid in that calendar year. During the first six months of the ensuing calendar year, in addition to deducting the amounts the Superintendent of Public Instruction is required to deduct under such sections during such period, the superintendent shall deduct from a district's or educational service center's state aid payments an additional amount equal to the amount that was certified as due from the district for the calendar year that ends during the fiscal year, but that was not deducted because of this paragraph. The superintendent's certifications to the Director of Budget and Management during the first six months of the calendar year shall reflect such additional deduction.

SECTION 41.25. EDUCATIONAL SERVICE CENTERS FUNDING

(A) As used in this section:

(1) "Internet- or computer-based community school" has the same

meaning as in section 3314.02 of the Revised Code.

(2) "Service center ADM" has the same meaning as in section 3317.11 of the Revised Code.

(B) Notwithstanding division (F) of section 3317.11 of the Revised Code, no funds shall be provided under that division to an educational service center in either fiscal year for any pupils of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local school district to a city school district.

(C) Notwithstanding any provision of the Revised Code to the contrary, an educational service center that sponsors a community school under Chapter 3314. of the Revised Code in either fiscal year may include the students of that community school in its service center ADM for purposes of state funding under division (F) of section 3317.11 of the Revised Code, unless the community school is an Internet- or computer-based community school. A service center shall include the community school students in its service center ADM only to the extent that the students are not already so included, and only in accordance with guidelines issued by the Department of Education. If the students of a community school sponsored by an educational service center are included in the service center ADM of another educational service center, those students shall be removed from the service center ADM of the other educational service center and added to the service center ADM of the community school's sponsoring service center. The General Assembly authorizes this procedure as an incentive for educational service centers to take over sponsorship of community schools from the State Board of Education as the State Board's sponsorship is phased out in accordance with Sub. H.B. 364 of the 124th General Assembly. No student of an Internet- or computer-based community school shall be counted in the service center ADM of any educational service center. The Department shall pay educational service centers under division (F) of section 3317.11 of the Revised Code for community school students included in their service center ADMs under this division only if sufficient funds earmarked within appropriation item 200-501, Base Cost Funding, for payments under that division remain after first paying for students attributable to their local and client school districts, in accordance with divisions (B) and (D) of this section.

(D) If insufficient funds are earmarked within appropriation item

200-501, Base Cost Funding, for payments under division (F) of section 3317.11 of the Revised Code and division (C) of this section in fiscal year 2004 or fiscal year 2005, the Department shall prioritize the distribution of the earmarked funds as follows:

(1) The Department shall first distribute to each educational service center the per-student amount specified in division (F) of section 3317.11 of the Revised Code for each student in its service center ADM attributable to the local school districts within the service center's territory.

(2) The Department shall distribute the remaining funds in each fiscal year to each educational service center for the students in its service center ADM attributable to each city and exempted village school district that had entered into an agreement with an educational service center for that fiscal year under section 3313.843 of the Revised Code by January 1, 1997, up to the per-student amount specified in division (F) of section 3317.11 of the Revised Code. If insufficient funds remain to pay each service center the full amount specified in division (F) of that section for each such student, the Department shall distribute the remaining funds to each service center proportionally, on a per-student basis for each such student, unless that proportional per-student amount exceeds the amount specified in division (F)(1) of that section. In that case, the Department shall distribute the per-student amount specified in division (F)(1) of that section to each service center for each such student and shall distribute the remainder proportionally, on a per-student basis for each such student, to the multi-county service centers described in division (F)(2) of that section.

(3) If the Department has paid each service center under divisions (D)(1) and (2) of this section, the full amount specified in division (F) of section 3317.11 of the Revised Code for each student attributable to its local school districts and its client school districts described in division (D)(2) of this section the Department shall distribute any remaining funds proportionally, on a per-student basis, to each service center that sponsors a community school, other than an Internet- or computer-based community school, for the students included in the service center ADM under division (C) of this section. These payments shall not exceed per student the amount specified in division (F) of section 3317.11 of the Revised Code.

SECTION 41.26. * For the school year commencing July 1, 2003, or the school year commencing July 1, 2004, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the

following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

SECTION 41.27. PRIVATE TREATMENT FACILITY PILOT PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2004 or fiscal year 2005 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) Act One, in Akron;

(e) Friars Club, in Cincinnati.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the

educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2004 and fiscal year 2005 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2004 and fiscal year 2005 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2004 and 2005, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, that has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of the reimbursement shall be the formula amount specified in section 3317.022 of the Revised Code, except that the department shall proportionately reduce this reimbursement if sufficient funds are not available to pay this amount to all qualified providers.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The department shall monitor the programs for educational accountability.

SECTION 41.28. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS

The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate.

SECTION 41.29. Notwithstanding division (C)(1) of section 3313.975 of the Revised Code, in addition to students in kindergarten through third grade, initial scholarships may be awarded to fourth, fifth, sixth, seventh, and eighth grade students in fiscal year 2004 and in fiscal year 2005.

SECTION 41.30. STATEMENT OF STATE SHARE PERCENTAGE FOR BASE COST AND PARITY AID FUNDING

Pursuant to division (D)(3) of section 3317.012 of the Revised Code,

and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for the update year (fiscal year 2002) is 49.0%. This is the target percentage for fiscal year 2004 and fiscal year 2005 that the General Assembly shall use to fulfill its obligation under division (D)(4) of section 3317.012 of the Revised Code.

Pursuant to division (D)(4) of section 3317.012 of the Revised Code, and based on the most recent data available prior to the enactment of this act, the General Assembly has determined that the state share percentage of base cost and parity aid funding for fiscal year 2004 is 48.5% and for fiscal year 2005 is 47.9%. This determination fulfills the General Assembly's obligation under that division for fiscal year 2004 and fiscal year 2005.

SECTION 41.31. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2004 and fiscal year 2005, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. S.B. 1 of the 124th General Assembly for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unspent and unencumbered appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment.

SECTION 41.32. (A) As used in this section:

(1) "IEP" has the same meaning as in section 3314.08 of the Revised Code.

(2) "SBH student" means a student receiving special education and related services for severe behavior handicap conditions pursuant to an IEP.

(B) This section applies only to a community school established under Chapter 3314. of the Revised Code that in each of fiscal years 2004 and 2005 enrolls a number of SBH students equal to at least fifty per cent of the total number of students enrolled in the school in the applicable fiscal year.

(C) In addition to any payments made under section 3314.08 of the Revised Code, in each of fiscal years 2004 and 2005 the Department of

Education shall pay to a community school a subsidy equal to the difference between the aggregate amount calculated and paid in that fiscal year to the community school for special education and related services additional weighted costs for the SBH students enrolled in the school and the aggregate amount that would have been calculated for the school for special education and related services additional weighted costs for those same students in fiscal year 2001. If the difference is a negative number, the amount of the subsidy shall be zero.

(D) The amount of any subsidy paid to a community school under this section shall not be deducted from any moneys calculated under Chapter 3317. of the Revised Code for payment to a school district in which any of its students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

The amount of any subsidy paid to a community school under this section shall be paid from the amount appropriated to the Department of Education in appropriation item 200-501, Base Cost Funding.

SECTION 41.33. (A) As used in this section:

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code.

(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.

(4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(5) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic;

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child;

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child;

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school

year in which a scholarship under this section is first sought for the child.

(6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.

(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2004 and 2005, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by a school district other than the school district in which the child is entitled to attend school or by another public entity, to either of which under law the parent is required to pay tuition on behalf of the child, or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or fifteen thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of, or in addition to, the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be awarded to the parent of a child who attends a public special education program under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider or to the parent of a child who attends a community school established under Chapter 3314. of the Revised Code. A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) Notwithstanding anything to the contrary in the Revised Code, a child for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the

district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the amounts paid to each school district under Chapter 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM and category six special education ADM of that school district as provided in division (C)(1) of this section. The scholarships deducted shall be considered as an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The Department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The Department shall approve entities that meet the standards established by rule of the State Board for the program established under this section.

(E) The State Board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers. The Board shall adopt the rules so that the program established under this section is operational by January 1, 2004.

(F) The Legislative Office of Education Oversight shall conduct a formative evaluation of the program established under this section and shall report its findings to the General Assembly not later than March 1, 2005. In conducting the evaluation, the Office shall to the extent possible gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for

inclusion in the report required under this section.

SECTION 41.34. (A) Not later than March 31, 2004, the department of education shall recommend to the general assembly, in consultation with stakeholders, plans for an Ohio Regional Education Delivery System to provide minimum core services and technical assistance to school districts. The recommendations shall address how the system should provide the state-funded core services currently provided by educational service centers, regional professional development centers, special education regional resource centers, area media centers, school improvement facilitators, Ohio SchoolNet regional services, data acquisition sites, educational technology centers, and other regional service providers. The department shall also recommend that the system provide minimum core services and technical assistance to chartered nonpublic schools to assist these schools in meeting Ohio's statutory and administrative code provisions applicable to such schools. However, the recommendations shall specify that in providing services to chartered nonpublic schools, the system is not required to create additional services or technical assistance beyond those provided to school districts.

(B)(1) The number of regional service centers recommended under the Ohio Regional Education Delivery System shall not exceed nineteen and shall be distributed geographically throughout the state.

(2) The plans shall recommend that each region established under the Ohio Regional Education Delivery System be served by a fiscal agent in the form of a regional educational service agency. Each service agency shall be selected by a majority vote of the school districts in the region based upon the agency's satisfactory audit record, demonstrated fiscal capacity, and demonstrated staff and resource capacity. The selection of each service agency shall be subject to final approval by the State Board of Education.

(C) The department, in consultation with stakeholders, shall recommend an accountability system for the Ohio Regional Education Delivery System or any part thereof as deemed necessary. The recommended accountability system shall include minimum standards for operation and the provision of minimum core services. It shall also include benchmarks against performance measures based on each of the following:

- (1) Student achievement;
- (2) The effectiveness and efficiency of service delivery;
- (3) The quality of implementation of state initiatives;
- (4) Satisfaction expressed by school districts and other entities that use the Ohio Regional Education Delivery System with the quality of the

system.

(D) The Department, in consultation with stakeholders, shall recommend rules regarding each of the following:

(1) Procedures for changing the boundaries of regions established under the system;

(2) Procedures for changing the configuration of the system;

(3) A requirement that each regional service center, prior to receiving state funds, submit to the Department an annual strategic plan and budget that is aligned with the state's strategic plan and demonstrates how the regional service center provides and coordinates services and technical assistance to client service providers, school districts, and school buildings;

(4) A governance structure for the system that includes a Regional Education Delivery Center Board and functional area advisory boards.

(E) The Department shall recommend a methodology to provide funding to the regional service centers, and all parts thereof, in order to support state education initiatives.

SECTION 41.35. (A) There is hereby created the Head Start Partnership Study Council consisting of the following twenty-two members:

(1) Four representatives appointed by the Director of Job and Family Services, two of whom are employees of the Department of Job and Family Services;

(2) Four representatives appointed by the Superintendent of Public Instruction, two of whom are employees of the Department of Education;

(3) Three members of the House of Representatives, not more than two of whom are members of the same political party, appointed by the Speaker of the House of Representatives;

(4) Three members of the Senate, not more two of whom are members of the same political party, appointed by the President of the Senate;

(5) Three representatives of Head Start agencies, two of whom are appointed by the Ohio Head Start Association, and one of whom is appointed by the Ohio Association of Community Action Agencies;

(6) Two representatives of child care providers appointed by the Ohio Association of Child Care Providers;

(7) One representative appointed by the Ohio Day Care Advisory Council;

(8) One representative appointed by the County Commissioner's Association of Ohio;

(9) One representative appointed by the Association of Directors of County Departments of Job and Family Services.

Initial appointments of members shall be made not later than September 1, 2003. Vacancies in any of those appointments shall be filled in the same manner as original appointments.

The Speaker of the House of Representatives and the President of the Senate jointly shall appoint the chairperson of the Council.

Members of the Council shall serve without compensation.

(B) In fiscal year 2004, the Council shall advise the Departments of Education and Job and Family Services in the design and implementation of the Title IV-A Head Start Plus Program as established under sections 3301.33 and 3301.35 of the Revised Code and shall report to the General Assembly on the plans for that program by December 31, 2003.

(C) In fiscal year 2005, the Council shall monitor the implementation of the Title IV-A Head Start Plus Program as established under sections 3301.33 and 3301.35 of the Revised Code and provide advice to the Departments of Education and Job and Family Services in that implementation.

(D) Unless reauthorized by the General Assembly, the Council shall cease to exist on July 1, 2005.

SECTION 41.36. (A) In the 2004-2005 and 2005-2006 school years, within three months after a student identified with disabilities begins receiving services for the first time under an individualized education program, as defined in section 3323.01 of the Revised Code, the school district in which that student is enrolled shall require the student to undergo a comprehensive eye examination performed either by an optometrist licensed under Chapter 4725. of the Revised Code or by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery who is comprehensively trained and educated in the treatment of the human eye, eye disease, or comprehensive vision services, unless the student underwent such an examination within the nine-month period immediately prior to being identified with disabilities.

However, no student who has not undergone the eye examination required under this section shall be prohibited from initiating, receiving, or continuing to receive services prescribed in the student's individualized education program.

(B) The superintendent of each school district or the superintendent's designee may determine fulfillment of the requirement prescribed in division (A) of this section based on any special circumstances of the student, the student's parent, guardian, or family that may prevent the

student from undergoing the eye examination prior to beginning special education services.

(C) Except for a student who may be entitled to a comprehensive eye examination in the identification of the student's disabilities, in the development of the student's individualized education program, or as a related service under the student's individualized education program, neither the state nor any school district shall be responsible for paying for the eye examination required by this section.

SECTION 41.37. TRANSITIONAL AID

The Department of Education shall distribute earmarked funds within appropriation item 200-501, Base Cost Funding, for transitional aid in each fiscal year to each city, local, and exempted village school district that experiences a decrease in its SF-3 funding plus charge-off supplement for the current fiscal year in excess of five per cent of its SF-3 funding plus charge-off supplement for the previous fiscal year. The Department shall distribute to each such district an amount to reduce the decrease to five per cent of the district's SF-3 funding plus charge-off supplement for the previous fiscal year. For this purpose, "SF-3 funding plus charge-off supplement" equals the sum of the following:

(A) Base cost funding under division (A) of section 3317.022 of the Revised Code;

(B) Special education and related services additional weighted funding under division (C)(1) of section 3317.022 of the Revised Code;

(C) Speech services funding under division (C)(4) of section 3317.022 of the Revised Code;

(D) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;

(E) GRADS funding under division (R) of section 3317.024 of the Revised Code;

(F) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;

(G) Disadvantaged Pupil Impact Aid under section 3317.029 of the Revised Code;

(H) Gifted education units under division (F) of section 3317.05 of the Revised Code;

(I) Equity aid under section 3317.0213 of the Revised Code;

(J) Transportation under division (D) of section 3317.022 of the Revised Code;

(K) The state aid guarantee under section 3317.0212 of the Revised Code;

(L) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;

(M) Parity aid under section 3317.0217 of the Revised Code;

(N) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;

(O) The charge-off supplement under section 3317.0216 of the Revised Code.

The SF-3 funding plus charge-off supplement for fiscal year 2003 for each district is the sum of those amounts less the general revenue fund spending reductions ordered by the Governor under Executive Order 2003-03T, March 5, 2003.

SECTION 41.38. By January 1, 2004, the Department of Education shall provide to the General Assembly a feasible standard for measuring school district attendance rates.

SECTION 41.39. EARMARK ACCOUNTABILITY

At the request of the Superintendent of Public Instruction, any entity that receives a budget earmark under the Department of Education shall submit annually to the chairpersons of the committees of the House of Representatives and the Senate primarily concerned with education and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. For an earmarked entity that received state funds from an earmark in the prior fiscal year, no funds shall be provided by the Department of Education to an earmarked entity for a fiscal year until its report for the prior fiscal year has been submitted.

SECTION 42. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION

General Revenue Fund

GRF 374-100	Personal Services	\$	1,300,000	\$	1,300,000
GRF 374-200	Maintenance	\$	800,000	\$	800,000
GRF 374-300	Equipment	\$	97,500	\$	97,500
GRF 374-401	Statehouse News Bureau	\$	260,000	\$	260,000
GRF 374-402	Ohio Government	\$	762,146	\$	762,146

	Telecommunications Studio				
GRF 374-403	Ohio SONET	\$	2,000,000	\$	2,000,000
GRF 374-404	Telecommunications	\$	3,962,199	\$	3,864,269
	Operating Subsidy				
TOTAL GRF	General Revenue Fund	\$	9,181,845	\$	9,083,915
General Services Fund Group					
4F3 374-603	Affiliate Services	\$	3,067,447	\$	3,067,447
4T2 374-605	Government	\$	150,000	\$	150,000
	Television/Telecommunications				
	Operating				
TOTAL GSF	General Services				
Fund Group		\$	3,217,447	\$	3,217,447
TOTAL ALL BUDGET FUND GROUPS		\$	12,399,292	\$	12,301,362

STATEHOUSE NEWS BUREAU

The foregoing appropriation item 374-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO

The foregoing appropriation item 374-402, Ohio Government Telecommunications Studio, shall be used solely to support the operations of the Ohio Government Telecommunications Studio.

OHIO SONET

The foregoing appropriation item 374-403, Ohio SONET, shall be used by the Ohio Educational Telecommunications Network Commission to pay monthly operating expenses and maintenance of the television and radio transmission infrastructure.

TELECOMMUNICATIONS OPERATING SUBSIDY

Of the foregoing appropriation item 374-404, Telecommunications Operating Subsidy, \$45,000 in each fiscal year shall be used for a competitive grant for dial-up newspaper reading services for the blind and physically handicapped. The Ohio Educational Telecommunications Network shall not disburse these funds without prior approval of the Controlling Board.

The remainder of appropriation item 374-404, Telecommunications Operating Subsidy, shall be distributed by the Ohio Educational Telecommunications Network Commission to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation developed by the Ohio Educational Telecommunications Network Commission.

SECTION 43. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund

Am. Sub. H. B. No. 95

1954

GRF 051-321	Operating Expenses	\$	294,857	\$	294,857
TOTAL GRF	General Revenue Fund	\$	294,857	\$	294,857
State Special Revenue Fund Group					
4P2 051-601	Ohio Elections				
	Commission Fund	\$	312,716	\$	321,766
TOTAL SSR	State Special				
Revenue Fund Group		\$	312,716	\$	321,766
TOTAL ALL BUDGET FUND GROUPS		\$	607,573	\$	616,623

SECTION 44. FUN STATE BOARD OF EMBALMERS AND
FUNERAL DIRECTORS

General Services Fund Group

4K9 881-609	Operating Expenses	\$	563,639	\$	594,870
TOTAL GSF	General Services				
Fund Group		\$	563,639	\$	594,870
TOTAL ALL BUDGET FUND GROUPS		\$	563,639	\$	594,870

SECTION 45. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund

GRF 125-321	Operating Expenses	\$	3,268,338	\$	3,268,338
TOTAL GRF	General Revenue Fund	\$	3,268,338	\$	3,268,338
General Services Fund Group					
572 125-603	Training and Publications	\$	75,541	\$	75,541
TOTAL GSF	General Services				
Fund Group		\$	75,541	\$	75,541
TOTAL ALL BUDGET FUND GROUPS		\$	3,343,879	\$	3,343,879

SECTION 46. ENG STATE BOARD OF ENGINEERS AND
SURVEYORS

General Services Fund Group

4K9 892-609	Operating Expenses	\$	999,150	\$	1,041,369
TOTAL GSF	General Services				
Fund Group		\$	999,150	\$	1,041,369
TOTAL ALL BUDGET FUND GROUPS		\$	999,150	\$	1,041,369

SECTION 47. EPA ENVIRONMENTAL PROTECTION AGENCY

General Revenue Fund

GRF 715-403	Clean Ohio	\$	788,985	\$	788,985
GRF 715-501	Local Air Pollution Control	\$	1,119,878	\$	1,091,882
GRF 717-321	Surface Water	\$	9,333,376	\$	9,358,950
GRF 718-321	Groundwater	\$	1,195,001	\$	1,163,554
GRF 719-321	Air Pollution Control	\$	2,543,260	\$	2,543,260
GRF 721-321	Drinking Water	\$	2,713,032	\$	2,713,032
GRF 723-321	Hazardous Waste	\$	110,184	\$	107,284
GRF 724-321	Pollution Prevention	\$	765,137	\$	745,002

Am. Sub. H. B. No. 95

1955

GRF 725-321	Laboratory	\$	1,290,237	\$	1,293,971
GRF 726-321	Corrective Actions	\$	1,253,593	\$	1,255,080
TOTAL GRF	General Revenue Fund	\$	21,112,683	\$	21,061,000
General Services Fund Group					
199 715-602	Laboratory Services	\$	1,042,081	\$	1,045,654
219 715-604	Central Support Indirect	\$	15,239,297	\$	15,544,407
4A1 715-640	Operating Expenses	\$	3,308,758	\$	3,369,731
TOTAL GSF	General Services Fund Group	\$	19,590,136	\$	19,959,792
Federal Special Revenue Fund Group					
3F2 715-630	Revolving Loan Fund - Operating	\$	80,000	\$	80,000
3F3 715-632	Fed Supported Cleanup and Response	\$	2,792,648	\$	2,326,434
3F4 715-633	Water Quality Management	\$	737,850	\$	712,850
3F5 715-641	Nonpoint Source Pollution Management	\$	7,090,002	\$	7,155,000
3J1 715-620	Urban Stormwater	\$	850,000	\$	956,001
3K2 715-628	Clean Water Act 106	\$	4,125,992	\$	4,125,992
3K4 715-634	DOD Monitoring and Oversight	\$	1,462,173	\$	1,450,333
3K6 715-639	Remedial Action Plan	\$	416,000	\$	385,001
3N1 715-655	Pollution Prevention Grants	\$	10,172	\$	0
3N4 715-657	DOE Monitoring and Oversight	\$	3,362,932	\$	3,427,442
3V7 715-606	Agencywide Grants	\$	100,268	\$	0
352 715-611	Wastewater Pollution	\$	252,000	\$	265,002
353 715-612	Public Water Supply	\$	2,909,865	\$	2,916,174
354 715-614	Hazardous Waste Management - Federal	\$	4,195,192	\$	4,203,891
357 715-619	Air Pollution Control - Federal	\$	5,447,334	\$	5,599,501
362 715-605	Underground Injection Control - Federal	\$	101,874	\$	101,874
TOTAL FED	Federal Special Revenue Fund Group	\$	33,934,302	\$	33,705,495
State Special Revenue Fund Group					
3T3 715-669	Drinking Water SRF	\$	3,631,132	\$	3,716,777
4J0 715-638	Underground Injection Control	\$	379,488	\$	394,385
4K2 715-648	Clean Air - Non Title V	\$	3,092,801	\$	3,370,002
4K3 715-649	Solid Waste	\$	14,286,500	\$	14,698,987
4K4 715-650	Surface Water Protection	\$	9,380,180	\$	9,380,181
4K5 715-651	Drinking Water Protection	\$	6,294,334	\$	6,255,946
4P5 715-654	Cozart Landfill	\$	146,792	\$	149,728
4R5 715-656	Scrap Tire Management	\$	5,800,000	\$	6,000,000
4R9 715-658	Voluntary Action Program	\$	603,435	\$	795,671
4T3 715-659	Clean Air - Title V Permit Program	\$	16,950,003	\$	16,650,001
4U7 715-660	Construction & Demolition Debris	\$	220,000	\$	220,000
5H4 715-664	Groundwater Support	\$	1,768,661	\$	1,797,036
5N2 715-613	Dredge and Fill	\$	30,000	\$	30,000

Am. Sub. H. B. No. 95

1956

5S1	715-607	Clean Ohio - Operating	\$	206,735	\$	208,174
500	715-608	Immediate Removal Special Account	\$	475,024	\$	482,000
503	715-621	Hazardous Waste Facility Management	\$	11,051,591	\$	11,465,671
503	715-662	Hazardous Waste Facility Board	\$	566,350	\$	576,619
505	715-623	Hazardous Waste Cleanup	\$	10,862,544	\$	11,557,987
505	715-674	Clean Ohio Environmental Review	\$	999,896	\$	1,179,249
541	715-670	Site Specific Cleanup	\$	344,448	\$	345,075
542	715-671	Risk Management Reporting	\$	142,087	\$	146,188
6A1	715-645	Environmental Education	\$	1,500,000	\$	1,500,000
602	715-626	Motor Vehicle Inspection and Maintenance	\$	1,444,464	\$	1,437,398
644	715-631	ER Radiological Safety	\$	281,424	\$	286,114
660	715-629	Infectious Waste Management	\$	160,000	\$	160,000
676	715-642	Water Pollution Control Loan Administration	\$	4,858,798	\$	4,964,625
678	715-635	Air Toxic Release	\$	314,081	\$	210,662
679	715-636	Emergency Planning	\$	2,798,648	\$	2,828,647
696	715-643	Air Pollution Control Administration	\$	750,002	\$	750,000
699	715-644	Water Pollution Control Administration	\$	625,000	\$	625,000
TOTAL SSR State Special Revenue Fund Group			\$	99,964,418	\$	102,182,123
TOTAL ALL BUDGET FUND GROUPS			\$	174,601,539	\$	176,908,410

CENTRAL SUPPORT INDIRECT

Notwithstanding any other provision of law to the contrary, the Director of Environmental Protection, with the approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Fund (Fund 219). The methodology used shall contain the characteristics of administrative ease and uniform application. Payments to the Central Support Indirect Fund (Fund 219) shall be made using an intrastate transfer voucher.

CLEAN OHIO - OPERATING

The foregoing appropriation item 715-607, Clean Ohio - Operating, shall be used by the Ohio Environmental Protection Agency in administering sections 122.65 to 122.658 of the Revised Code.

SECTION 48. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION

General Revenue Fund

GRF 172-321	Operating Expenses	\$	437,131	\$	439,109
TOTAL GRF General Revenue Fund		\$	437,131	\$	439,109
TOTAL ALL BUDGET FUND GROUPS		\$	437,131	\$	439,109

SECTION 49. ETH OHIO ETHICS COMMISSION

General Revenue Fund

GRF 146-321	Operating Expenses	\$	1,286,869	\$	1,351,213
TOTAL GRF General Revenue Fund		\$	1,286,869	\$	1,351,213

General Services Fund Group

4M6 146-601	Operating Expenses	\$	409,543	\$	383,543
TOTAL GSF General Services Fund Group		\$	409,543	\$	383,543
TOTAL ALL BUDGET FUND GROUPS		\$	1,696,412	\$	1,734,756

SECTION 50. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF 723-403	Junior Fair Subsidy	\$	465,412	\$	465,412
TOTAL GRF General Revenue Fund		\$	465,412	\$	465,412

State Special Revenue Fund Group

4N2 723-602	Ohio State Fair Harness Racing	\$	520,000	\$	520,000

506 723-601	Operating Expenses	\$	13,211,481	\$	13,643,315
640 723-603	State Fair Reserve	\$	125,000	\$	0
TOTAL SSR State Special Revenue Fund Group		\$	13,856,481	\$	14,163,315
TOTAL ALL BUDGET FUND GROUPS		\$	14,321,893	\$	14,628,727

STATE FAIR RESERVE

The foregoing appropriation item 723-603, State Fair Reserve, shall serve as a budget reserve fund for the Ohio Expositions Commission in the event of a significant decline in attendance due to inclement weather or extraordinary circumstances during the Ohio State Fair resulting in a loss of revenue. The State Fair Reserve may be used by the Ohio Expositions Commission to pay bills resulting from the Ohio State Fair only if all the following criteria are met:

(A) Admission revenues for the 2003 Ohio State Fair are less than \$2,542,500 or admission revenues for the 2004 Ohio State Fair are less than \$2,619,000 due to inclement weather or extraordinary circumstances. These amounts are ninety per cent of the projected admission revenues for each year.

(B) The Ohio Expositions Commission declares a state of fiscal exigency and requests release of funds by the Director of Budget and Management.

(C) The Director of Budget and Management releases the funds. The Director of Budget and Management may approve or disapprove the request for release of funds, may increase or decrease the amount of release, and may place such conditions as the director considers necessary on the use of

the released funds. The Director of Budget and Management may transfer appropriation authority from fiscal year 2004 to fiscal year 2005 as needed.

In the event that the Ohio Expositions Commission faces a temporary cash shortage that will preclude it from meeting current obligations, the Commission may request the Director of Budget and Management to approve use of the State Fair Reserve to meet those obligations. The request shall include a plan describing how the Commission will eliminate the cash shortage. If the Director of Budget and Management approves the expenditures, the Commission shall reimburse Fund 640 by the thirtieth day of June of that same fiscal year through an intrastate transfer voucher. The amount reimbursed is hereby appropriated.

Of the foregoing appropriation item 723-603, State Fair Reserve, up to \$125,000 shall be transferred in fiscal year 2004 to appropriation item 723-403, Junior Fair Subsidy.

SECTION 51. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF 040-321	Operating Expenses	\$	4,112,358	\$	4,235,726
GRF 040-403	Federal Relations	\$	510,000	\$	510,000
GRF 040-408	Office of Veterans' Affairs	\$	276,723	\$	285,025
TOTAL GRF General Revenue Fund		\$	4,899,081	\$	5,030,751

General Services Fund Group

412 040-607	Federal Relations	\$	500,000	\$	500,000
TOTAL GSF General Services Fund Group		\$	500,000	\$	500,000
TOTAL ALL BUDGET FUND GROUPS		\$	5,399,081	\$	5,530,751

APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR

The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.

FEDERAL RELATIONS

A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.

The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 412).

SECTION 52. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF 440-407	Animal Borne Disease and Prevention	\$	2,690,101	\$	2,690,101
GRF 440-412	Cancer Incidence Surveillance System	\$	1,038,815	\$	1,066,616
GRF 440-413	Healthy Communities	\$	4,139,009	\$	4,139,009
GRF 440-416	Child and Family Health Services	\$	9,034,972	\$	9,034,972
GRF 440-418	Immunizations	\$	8,431,975	\$	8,600,615
GRF 440-419	Sexual Assault Prevention	\$	35,899	\$	35,899
GRF 440-444	AIDS Prevention and Treatment	\$	7,589,816	\$	7,589,816
GRF 440-446	Infectious Disease Prevention	\$	439,330	\$	439,330
GRF 440-451	Lab and Public Health Prevention Programs	\$	6,085,250	\$	6,085,250
GRF 440-452	Child and Family Health Services Match	\$	1,024,017	\$	1,024,017
GRF 440-453	Health Care Quality Assurance	\$	10,453,728	\$	10,453,728
GRF 440-454	Local Environmental Health	\$	1,047,654	\$	1,047,654
GRF 440-459	Help Me Grow	\$	9,861,089	\$	9,861,089
GRF 440-461	Center for Vital and Health Stats	\$	4,079,790	\$	4,079,790
GRF 440-504	Poison Control Network	\$	388,000	\$	388,000
GRF 440-505	Medically Handicapped Children	\$	6,462,257	\$	6,462,738
GRF 440-507	Targeted Health Care Services Over 21	\$	731,023	\$	731,023
GRF 440-508	Migrant Health	\$	91,301	\$	91,301
TOTAL GRF General Revenue Fund		\$	73,624,026	\$	73,820,948

General Services Fund Group

142 440-618	General Operations - General Services Fund	\$	3,372,444	\$	3,461,915
211 440-613	Central Support Indirect Costs	\$	26,578,343	\$	26,584,707
473 440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045
683 440-633	Employee Assistance Program	\$	1,192,234	\$	1,192,214
698 440-634	Nurse Aide Training	\$	170,000	\$	170,000
TOTAL GSF General Services Fund Group		\$	35,467,066	\$	35,562,881

Federal Special Revenue Fund Group

320 440-601	Maternal Child Health Block Grant	\$	34,451,205	\$	35,136,169
387 440-602	Preventive Health Block Grant	\$	8,200,000	\$	8,200,000
389 440-604	Women, Infants, and Children	\$	210,000,000	\$	220,000,000
391 440-606	Medicaid/Medicare	\$	26,294,274	\$	26,820,159
392 440-618	General Operations - Federal Fund	\$	114,474,764	\$	115,319,323

TOTAL FED Federal Special Revenue

Am. Sub. H. B. No. 95

1960

Fund Group		\$	393,420,243	\$	405,475,651
State Special Revenue Fund Group					
4D6 440-608	Genetics Services	\$	2,300,000	\$	2,300,000
4F9 440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344
4G0 440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000
4G0 440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000
4L3 440-609	Miscellaneous Expenses	\$	256,082	\$	144,119
4T4 440-603	Child Highway Safety	\$	233,894	\$	233,894
4V6 440-641	Save Our Sight	\$	1,733,327	\$	1,767,994
470 440-618	General Operations - State Special Revenue	\$	14,525,443	\$	16,025,194
471 440-619	Certificate of Need	\$	475,000	\$	483,572
477 440-627	Medically Handicapped Children Audit	\$	4,640,498	\$	4,733,008
5B5 440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479
5C0 440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405
5D6 440-620	Second Chance Trust	\$	887,018	\$	825,951
5G4 440-639	Adoption Services	\$	20,000	\$	20,000
5E1 440-624	Health Services	\$	688,321	\$	0
5L1 440-623	Nursing Facility Technical Assistance Program	\$	586,153	\$	617,517
610 440-626	Radiation Emergency Response	\$	923,315	\$	923,315
666 440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687
TOTAL SSR State Special Revenue					
Fund Group		\$	44,928,966	\$	45,734,479
Holding Account Redistribution Fund Group					
R14 440-631	Vital Statistics	\$	70,000	\$	70,000
R48 440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,400	\$	20,400
TOTAL 090 Holding Account					
Redistribution Fund Group		\$	90,400	\$	90,400
TOTAL ALL BUDGET FUND GROUPS					
		\$	547,530,701	\$	560,684,359

SECTION 52.01. CANCER REGISTRY SYSTEM

Of the foregoing appropriation item 440-412, Cancer Incidence Surveillance System, not more than \$50,000 in each fiscal year shall be provided to Health Comp, Inc.

The remaining moneys in appropriation item 440-412, Cancer Incidence Surveillance System, shall be used to maintain and operate the Ohio Cancer Incidence Surveillance System pursuant to sections 3701.261 to 3701.263 of the Revised Code.

SECTION 52.02. CHILD AND FAMILY HEALTH SERVICES

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$1,700,000 in each fiscal year shall be used for women's health services.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$30,000 in each fiscal year shall be allocated to the Jewish Family Service of Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Service of Cincinnati, and \$10,000 in each fiscal year shall be allocated to the Jewish Family Services of Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to Clermont County's Comprehensive Community Suicide Prevention Program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Health Education Center in Cincinnati.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$62,500 in each fiscal year shall be allocated to the Cincinnati YWCA Hippy.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Helping Hearts Program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$25,000 in each fiscal year shall be allocated to the Tree of Knowledge Learning Center.

Of the foregoing appropriation item 440-416, Child and Family Health

Services, \$50,000 in each fiscal year shall be allocated to the Mayerson Foundation.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$50,000 in each fiscal year shall be allocated to the Columbus Yassenoff Jewish Community Center to fund nutrition and exercise education for children ages eight to thirteen.

SECTION 52.03. WOMEN'S HEALTH SERVICES UNTIL JANUARY 1, 2004

None of the funds received for women's health services through a family planning grant from the foregoing appropriation item 440-416, Child and Family Health Services, shall be used to provide abortion services. None of the funds received through these family planning grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed on the basis of the relative need in the community served by the Director of Health to family planning programs, which shall include family planning programs funded under Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and Title X of the "Public Health Services Act," 58 Stat. 682 (1946), 42 U.S.C. 201, as amended, as well as to other family planning programs that the Department of Health also determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency, with state moneys, but that otherwise substantially comply with the quality standards for such programs under Title V and Title X.

The Director of Health, by rule, shall provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding, while ensuring that a family planning program receiving a family planning grant must be organized so that it is physically and financially separate from the provision of abortion services and from activities promoting abortion as a method of family planning.

This section expires January 1, 2004.

SECTION 52.04. WOMEN'S SERVICES STARTING JANUARY 1, 2004

None of the funds received through grants for women's health services under this section from the foregoing appropriation item 440-416, Child and

Family Health Services, shall be used to provide abortion services. None of the funds received through these grants shall be used for counseling for or referrals for abortion, except in the case of a medical emergency. These funds shall be distributed by the Director of Health to programs that the Department of Health determines will provide services that are physically and financially separate from abortion-providing and abortion-promoting activities, and that do not include counseling for or referrals for abortion, other than in the case of medical emergency.

These women's health services include and are limited to the following: pelvic exams and lab testing; breast exams and patient education on breast cancer; screening for cervical cancer; screening and treatment for Sexually Transmitted Diseases (STDs) and HIV screening; voluntary choice of contraception, including abstinence and natural family planning; patient education and pre-pregnancy counseling on the dangers of smoking, alcohol, and drug use during pregnancy; education on sexual coercion and violence in relationships; and prenatal care or referral for prenatal care. These health care services shall be provided by licensed doctors, licensed nurses, licensed medical assistants, licensed counselors, and licensed social workers in a medical clinic setting.

The Director of Health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying reasonable eligibility standards that must be met to receive the state funding and provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Each applicant for these funds shall provide sufficient assurance to the Director of Health of all of the following:

(A) The program shall not discriminate in the provision of services based on an individual's religion, race, national origin, handicapping condition, age, sex, number of pregnancies, or marital status;

(B) The program shall provide services without subjecting individuals to any coercion to accept services or to employ any particular methods of family planning;

(C) Acceptance of services shall be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other service, assistance from, or participation in, any other program of the service provider;

(D) The costs for services provided by the program, if any are charged, shall be based on the patient's ability to pay and priority in the provision of services shall be given to persons from low-income families.

In distributing these grant funds, the Director of Health shall give priority to grant requests from local departments of health for women's health services to be provided directly by personnel of the local department of health. Prior to the effective date of this section, the Director of Health shall issue a single request for proposals for all grants under this set-aside. The Director of Health shall send a notification of this request for proposals to every local department of health in this state and shall place a notification on the department's web site. The Director shall allow at least 30 days after issuing this notification before closing the period to receive applications.

After the closing date for receiving grant applications, the Director of Health shall first consider grant applications from local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health. Local departments of health that apply for grants for women's health services to be provided directly by personnel of the local department of health need not provide all the listed women's health services in order to qualify for a grant. However, in prioritizing awards among local departments of health that qualify for funding under this paragraph, the Director of Health may consider, among other reasonable factors, the comprehensiveness of the women's health services to be offered, provided that no local department of health shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

This section takes effect January 1, 2004.

SECTION 52.05. SEXUAL ASSAULT PREVENTION AND INTERVENTION

The foregoing appropriation item 440-419, Sexual Assault Prevention and Intervention, shall be used for the following purposes:

- (A) Funding of new services in counties with no services for sexual assault;
- (B) Expansion of services provided in currently funded projects so that comprehensive crisis intervention and prevention services are offered;
- (C) Start-up funding for Sexual Assault Nurse Examiner (SANE)

projects;

(D) Statewide expansion of local outreach and public awareness efforts.

HIV/AIDS PREVENTION/TREATMENT

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, up to \$6.4 million in fiscal year 2004 and up to \$6.7 million in fiscal year 2005 shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

INFECTIOUS DISEASE PREVENTION

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$200,000 in each fiscal year shall be used to reimburse boards of county commissioners pursuant to division (A) of section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$60,000 shall be used by the Director of Health to reimburse Boards of County Commissioners for the cost of detaining indigent persons with tuberculosis. Any portion of the \$60,000 allocated for detainment not used for that purpose shall be used to make payments to counties pursuant to section 339.77 of the Revised Code.

Of the foregoing appropriation item 440-446, Infectious Disease Prevention, not more than \$250,000 in each fiscal year shall be used for the purchase of drugs for sexually transmitted diseases.

HELP ME GROW

The foregoing appropriation item 440-459, Help Me Grow, shall be used by the Department of Health to distribute subsidies to counties to implement the Help Me Grow program. Appropriation item 440-459 may be used in conjunction with Temporary Assistance for Needy Families from the Department of Job and Family Services, Early Intervention funding from the Department of Mental Retardation and Developmental Disabilities, and in conjunction with other early childhood funds and services to promote the optimal development of young children. Local contracts shall be developed between local departments of job and family services and family and children first councils for the administration of TANF funding for the Help Me Grow Program. The Department of Health shall enter into an interagency agreement with the Department of Education, Department of Mental Retardation and Developmental Disabilities, Department of Job and Family Services, and Department of Mental Health to ensure that all early childhood programs and initiatives are coordinated and school linked.

POISON CONTROL NETWORK

The foregoing appropriation item 440-504, Poison Control Network, shall be used in each fiscal year by the Department of Health for grants to

the consolidated Ohio Poison Control Center to provide poison control services to Ohio citizens.

Notwithstanding section 3701.83 of the Revised Code, not later than the fifteenth day of July of each fiscal year or as soon as possible thereafter, the Director of Budget and Management shall transfer cash in the amount of \$127,287 from appropriation item 440-618, General Operations – General Services Fund, (Fund 142) to the General Revenue Fund.

TARGETED HEALTH CARE SERVICES OVER 21

In each fiscal year, appropriation item 440-507, Targeted Health Care Services Over 21, shall be used to administer the cystic fibrosis program and implement the Hemophilia Insurance Premium Payment program.

EXTENSION OF HEMOPHILIA HEALTH INSURANCE PREMIUM PAYMENTS

The Director of Health shall continue to provide, through contracts with or grants to hemophilia treatment centers, for health insurance premiums to be paid for individuals who are at least twenty-one years of age, diagnosed with hemophilia or a related bleeding disorder, and receive such assistance on the day prior to the effective date of this section under the program for care and treatment of persons suffering from hemophilia established under former section 3701.144 of the Revised Code until the effective date of the initial rules adopted under division (A)(12) of section 3701.021 of the Revised Code for the hemophilia program established under section 3701.029 of the Revised Code. The Public Health Council shall adopt those rules not later than twelve months after the effective date of this section.

MATERNAL CHILD HEALTH BLOCK GRANT

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), \$2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. Such guidelines shall be pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

GENETICS SERVICES

The foregoing appropriation item 440-608, Genetics Services (Fund 4D6), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code. None of these funds shall be used to counsel or refer for abortion, except in the case of a medical emergency.

SAFETY AND QUALITY OF CARE STANDARDS

The Department of Health may use Fund 471, Certificate of Need, for administering sections 3702.11 to 3702.20 and 3702.30 of the Revised Code in each fiscal year.

MEDICALLY HANDICAPPED CHILDREN AUDIT

The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payers. Moneys may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payers and for encouraging Medically Handicapped Children's Program recipients to apply for third-party benefits. Moneys also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, and Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis or hemophilia. Moneys may also be expended for administrative expenses incurred in operating the Medically Handicapped Children's Program.

CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND

The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.

The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) established in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.

MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS

The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments pursuant to division (E) of section 3701.023 of the Revised Code.

NURSING FACILITY TECHNICAL ASSISTANCE PROGRAM

The Director of Budget and Management shall transfer, by intrastate transfer voucher, each fiscal year, cash from Fund 4E3, Resident Protection Fund, in the Ohio Department of Job and Family Services, to Fund 5L1, Nursing Facility Technical Assistance Fund, in the Ohio Department of Health, to be used in accordance with section 3721.026 of the Revised Code. The transfers shall equal the amount appropriated per fiscal year in Fund

5L1, Nursing Facility Technical Assistance Fund.

SECTION 53. HEF HIGHER EDUCATIONAL FACILITY COMMISSION

Agency Fund Group

461 372-601	Operating Expenses	\$	15,290	\$	16,819
TOTAL AGY Agency Fund Group		\$	15,290	\$	16,819
TOTAL ALL BUDGET FUND GROUPS		\$	15,290	\$	16,819

SECTION 54. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund

GRF 148-100	Personal Services	\$	127,419	\$	127,419
GRF 148-200	Maintenance	\$	35,901	\$	35,901
TOTAL GRF General Revenue Fund		\$	163,320	\$	163,320

General Services Fund Group

601 148-602	Gifts and Miscellaneous	\$	8,485	\$	8,485
TOTAL GSF General Services Fund Group		\$	8,485	\$	8,485
TOTAL ALL BUDGET FUND GROUPS		\$	171,805	\$	171,805

SECTION 55. OHS OHIO HISTORICAL SOCIETY

General Revenue Fund

GRF 360-403	Adena - Worthington Home	\$	200,000	\$	150,000
GRF 360-501	Operating Subsidy	\$	3,389,973	\$	3,389,973
GRF 360-502	Site Operations	\$	8,240,438	\$	8,240,438
GRF 360-503	Ohio Bicentennial Commission	\$	1,847,239	\$	58,164
GRF 360-504	Ohio Preservation Office	\$	289,733	\$	289,733
GRF 360-505	Afro-American Museum	\$	778,231	\$	778,231
GRF 360-506	Hayes Presidential Center	\$	524,981	\$	524,981
GRF 360-508	Historical Grants	\$	2,200,000	\$	1,550,000
TOTAL GRF General Revenue Fund		\$	17,470,595	\$	14,981,520
TOTAL ALL BUDGET FUND GROUPS		\$	17,470,595	\$	14,981,520

SUBSIDY APPROPRIATION

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the society for fiscal years 2004 and 2005 shall be examined by independent certified public accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management. The society shall prepare and submit to the Office of Budget and Management the following:

- (A) An estimated operating budget for each fiscal year of the biennium.

The operating budget shall be submitted at or near the beginning of each year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration provided by the state to support the state's offer to contract with the Ohio Historical Society under section 149.30 of the Revised Code. If the Ohio Historical Society accepts this contractual offer, the society may not, during fiscal year 2004 or 2005, close any of the sites operated by the society as of the effective date of this section.

Not later than May 15, 2004, the Ohio Historical Society shall submit to the Controlling Board a plan for the implementation of the recommendations of the Select Committee to Study the Effectiveness of Ohio's Historical Programs and Partnerships. No appropriations to the society for fiscal year 2005 may be expended without prior approval of the implementation plan by the Controlling Board.

HAYES PRESIDENTIAL CENTER

If a United States government agency, including, but not limited to, the National Park Service, chooses to take over the operations or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations or maintenance.

HISTORICAL GRANTS

Of the foregoing appropriation item 360-508, Historical Grants, \$91,667 in fiscal year 2004 and \$88,571 in fiscal year 2005 shall be distributed to the Hebrew Union College in Cincinnati for the Center for Holocaust and Humanity Education, \$137,500 in fiscal year 2004 shall be distributed to the National Underground Railroad Freedom Center in Cincinnati, \$229,167 in fiscal year 2004 and \$221,430 in fiscal year 2005 shall be distributed to the Great Lakes Historical Society in Vermilion, \$733,333 in fiscal year 2004 and \$708,571 in fiscal year 2005 shall be distributed to the Western Reserve Historical Society in Cleveland, \$458,333 in fiscal year 2004 shall be distributed to the Village of Dennison for the Historical Center Street District, \$91,667 in fiscal year 2004 and \$88,571 in fiscal year 2005 shall be distributed to the Harbor Heritage Society Steamship Mather in Cleveland, and \$458,333 in fiscal year 2004 and \$442,857 in fiscal year 2005 shall be distributed to the Cincinnati Museum Center.

OHIO BICENTENNIAL COMMISSION ROYALTIES

Notwithstanding any previous arrangement to the contrary, the Ohio Bicentennial Commission shall keep the first \$100,000 in earned royalties associated with the Ohio Bicentennial logo during the 2004-2005 biennium. This \$100,000 shall be used to cover the operating expenses of the Ohio Bicentennial Commission in fiscal year 2005. The remaining moneys collected from royalties associated with the Ohio Bicentennial logo shall be deposited into the General Revenue Fund, of which \$350,000 shall be distributed to the Ohio Historical Society for use in appropriation item 360-403, Adena - Worthington Home.

SECTION 56. REP OHIO HOUSE OF REPRESENTATIVES

General Revenue Fund

GRF 025-321	Operating Expenses	\$	19,018,547	\$	19,969,473
TOTAL GRF General Revenue Fund		\$	19,018,547	\$	19,969,473

General Services Fund Group

103 025-601	House Reimbursement	\$	1,351,875	\$	1,419,469
4A4 025-602	Miscellaneous Sales	\$	35,690	\$	37,474
TOTAL GSF General Services Fund Group		\$	1,387,565	\$	1,456,943
TOTAL ALL BUDGET FUND GROUPS		\$	20,406,112	\$	21,426,416

SECTION 57. IGO OFFICE OF THE INSPECTOR GENERAL

General Revenue Fund

GRF 965-321	Operating Expenses	\$	812,000	\$	812,000
TOTAL GRF General Revenue Fund		\$	812,000	\$	812,000

State Special Revenue Fund Group

4Z3 965-602	Special Investigations	\$	100,000	\$	100,000
TOTAL SSR State Special Revenue Fund Group		\$	100,000	\$	100,000

TOTAL ALL BUDGET FUND GROUPS		\$	912,000	\$	912,000

SPECIAL INVESTIGATIONS

Of the foregoing appropriation item 965-602, Special Investigations, up to \$100,000 in each fiscal year may be used for investigative costs, pursuant to section 121.481 of the Revised Code.

SECTION 58. INS DEPARTMENT OF INSURANCE

Federal Special Revenue Fund Group

3U5 820-602	OSHIIP Operating Grant	\$	560,559	\$	560,559
TOTAL FED Federal Special Revenue Fund Group		\$	560,559	\$	560,559

State Special Revenue Fund Group

554 820-601	Operating Expenses - OSHIIP	\$	506,515	\$	561,411
554 820-606	Operating Expenses	\$	21,815,431	\$	22,357,575

555 820-605 Examination	\$	7,433,751	\$	7,639,581
TOTAL SSR State Special Revenue				
Fund Group	\$	29,755,697	\$	30,558,567
TOTAL ALL BUDGET FUND GROUPS	\$	30,316,256	\$	31,119,126

MARKET CONDUCT EXAMINATION

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of the examination against the insurer. The superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or regulations administered by the superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 554).

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES

The Superintendent of Insurance may transfer funds from the Department of Insurance Operating Fund (Fund 554), established by section 3901.021 of the Revised Code, to the Superintendent's Examination Fund (Fund 555), established by section 3901.071 of the Revised Code, only for the expenses incurred in examining domestic fraternal benefit societies as required by section 3921.28 of the Revised Code.

On July 1, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$1,000,000 from the Department of Insurance Operating Fund (Fund 554) to the General Revenue Fund.

SECTION 59. JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

GRF 600-321	Support Services			
	State	\$	62,361,047	\$ 58,611,047
	Federal	\$	7,176,249	\$ 7,125,883
	Support Services Total	\$	69,537,296	\$ 65,736,930
GRF 600-410	TANF State	\$	272,619,061	\$ 272,619,061
GRF 600-413	Child Care Match/Maintenance of Effort	\$	84,120,596	\$ 84,120,596
GRF 600-416	Computer Projects			
	State	\$	120,000,000	\$ 120,000,000
	Federal	\$	31,095,442	\$ 31,400,454
	Computer Projects Total	\$	151,095,442	\$ 151,400,454
GRF 600-420	Child Support Administration	\$	5,091,446	\$ 5,091,446
GRF 600-421	Office of Family Stability	\$	4,864,932	\$ 4,864,932
GRF 600-422	Local Operations	\$	2,305,232	\$ 2,305,232
GRF 600-423	Office of Children and Families	\$	5,000,000	\$ 5,000,000
GRF 600-424	Office of Workforce Development	\$	877,971	\$ 877,971

Am. Sub. H. B. No. 95

1972

GRF 600-425	Office of Ohio Health Plans				
	State	\$	21,944,901	\$	22,603,740
	Federal	\$	21,848,555	\$	22,495,502
	Office of Ohio Health Plans	\$	43,793,456	\$	45,099,242
	Total				
GRF 600-435	Unemployment Compensation	\$	3,188,473	\$	3,188,473
	Review Commission				
GRF 600-439	Commission to Reform	\$	125,000	\$	125,000
	Medicaid				
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371
GRF 600-521	Family Stability Subsidy	\$	55,206,401	\$	55,206,401
GRF 600-523	Children and Families Subsidy	\$	69,846,563	\$	69,846,563
GRF 600-525	Health Care/Medicaid				
	State	\$	3,651,294,321	\$	3,842,465,911
	Federal	\$	5,188,691,539	\$	5,463,149,039
	Health Care Total	\$	8,839,985,860	\$	9,305,614,950
GRF 600-528	Adoption Services				
	State	\$	33,395,955	\$	36,017,981
	Federal	\$	37,368,248	\$	41,115,000
	Adoption Services Total	\$	70,764,203	\$	77,132,981
TOTAL GRF	General Revenue Fund				
	State	\$	4,428,706,900	\$	4,619,409,355
	Federal	\$	5,286,180,033	\$	5,565,285,878
	GRF Total	\$	9,718,075,406	\$	10,187,883,706
General Services Fund Group					
4A8 600-658	Child Support Collections	\$	27,255,646	\$	26,680,794
4R4 600-665	BCII Services/Fees	\$	136,974	\$	136,974
5C9 600-671	Medicaid Program Support	\$	54,686,270	\$	55,137,078
5N1 600-677	County Technologies	\$	5,000,000	\$	5,000,000
613 600-645	Training Activities	\$	135,000	\$	135,000
TOTAL GSF	General Services				
Fund Group		\$	87,213,890	\$	87,089,846
Federal Special Revenue Fund Group					
3A2 600-641	Emergency Food Distribution	\$	2,083,500	\$	2,187,675
3D3 600-648	Children's Trust Fund Federal	\$	2,040,524	\$	2,040,524
3F0 600-623	Health Care Federal	\$	391,658,105	\$	394,221,409
3F0 600-650	Hospital Care Assurance	\$	298,128,308	\$	305,879,644
	Match				
3G5 600-655	Interagency Reimbursement	\$	1,180,523,642	\$	1,245,244,536
3H7 600-617	Child Care Federal	\$	224,539,425	\$	235,045,596
3N0 600-628	IV-E Foster Care Maintenance	\$	173,963,142	\$	173,963,142
3S5 600-622	Child Support Projects	\$	534,050	\$	534,050
3V0 600-662	WIA Ohio Option #7	\$	87,407,014	\$	89,352,850
3V0 600-688	Workforce Investment Act	\$	93,636,390	\$	94,932,750
3V4 600-678	Federal Unemployment	\$	153,690,682	\$	154,111,608
	Programs				
3V4 600-679	Unemployment Compensation	\$	3,097,320	\$	2,860,297
	Review Commission - Federal				
3V6 600-689	TANF Block Grant	\$	786,095,609	\$	845,909,688
3W3 600-659	TANF/Title XX	\$	88,994,049	\$	93,498,158
316 600-602	State and Local Training	\$	11,212,594	\$	11,249,282
327 600-606	Child Welfare	\$	29,119,408	\$	28,665,728

Am. Sub. H. B. No. 95

1973

331	600-686	Federal Operating	\$	48,237,185	\$	47,340,081
365	600-681	JOB Training Program	\$	5,000,000	\$	0
384	600-610	Food Stamps and State Administration	\$	134,560,572	\$	135,141,694
385	600-614	Refugee Services	\$	5,793,656	\$	5,841,407
395	600-616	Special Activities/Child and Family Services	\$	3,975,821	\$	3,975,821
396	600-620	Social Services Block Grant	\$	74,969,767	\$	74,986,134
397	600-626	Child Support	\$	304,157,939	\$	307,468,576
398	600-627	Adoption Maintenance/ Administration	\$	339,957,978	\$	340,104,370
TOTAL FED Federal Special Revenue Fund Group			\$	4,443,376,680	\$	4,594,555,020
State Special Revenue Fund Group						
198	600-647	Children's Trust Fund	\$	4,336,109	\$	4,336,109
4A9	600-607	Unemployment Compensation Admin Fund	\$	8,001,000	\$	8,001,000
4E3	600-605	Nursing Home Assessments	\$	4,759,913	\$	4,759,914
4E7	600-604	Child and Family Services Collections	\$	300,000	\$	300,000
4F1	600-609	Foundation Grants/Child and Family Services	\$	119,310	\$	119,310
4J5	600-613	Nursing Facility Bed Assessments	\$	35,060,013	\$	35,064,238
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000
4K1	600-621	ICF/MR Bed Assessments	\$	20,467,050	\$	20,428,726
4R3	600-687	Banking Fees	\$	892,000	\$	892,000
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000
5A5	600-685	Unemployment Benefit Automation	\$	14,000,000	\$	0
5P5	600-692	Health Care Services	\$	492,932,514	\$	515,947,439
5Q9	600-619	Supplemental Inpatient Hospital Payments	\$	30,797,539	\$	30,797,539
5R2	600-608	Medicaid-Nursing Facilities	\$	113,754,184	\$	113,754,184
5S3	600-629	MR/DD Medicaid Administration and Oversight	\$	1,620,960	\$	1,620,960
5T2	600-652	Child Support Special Payment	\$	1,500,000	\$	750,000
5U3	600-654	Health Care Services Administration	\$	7,576,322	\$	6,119,127
5U6	600-663	Children and Family Support	\$	4,929,718	\$	4,929,718
651	600-649	Hospital Care Assurance Program Fund	\$	208,634,072	\$	214,058,558
TOTAL SSR State Special Revenue Fund Group			\$	975,380,704	\$	987,578,822
Agency Fund Group						
192	600-646	Support Intercept - Federal	\$	136,500,000	\$	136,500,000
5B6	600-601	Food Stamp Intercept	\$	5,000,000	\$	5,000,000
583	600-642	Support Intercept - State	\$	20,565,582	\$	20,565,582
TOTAL AGY Agency Fund Group			\$	162,065,582	\$	162,065,582
Holding Account Redistribution Fund Group						
R12	600-643	Refunds and Audit	\$	5,343,906	\$	5,343,906

	Settlements				
R13 600-644	Forgery Collections		700,000		700,000
TOTAL 090 Holding Account Redistribution		\$	6,043,906	\$	6,043,906
Fund Group					
TOTAL ALL BUDGET FUND GROUPS		\$	15,392,156,168	\$	16,025,216,882

SECTION 59.01. OHIO COMMISSION TO REFORM MEDICAID

The foregoing appropriation item 600-439, Commission to Reform Medicaid, shall be used to fund the Ohio Commission to Reform Medicaid.

HEALTH CARE/MEDICAID

The foregoing appropriation item 600-525, Health Care/Medicaid, shall not be limited by the provisions of section 131.33 of the Revised Code.

SECTION 59.02. CHILD SUPPORT COLLECTIONS/TANF MOE

The foregoing appropriation item 600-658, Child Support Collections, shall be used by the Department of Job and Family Services to meet the TANF maintenance of effort requirements of Pub. L. No. 104-193. After the state has met the maintenance of effort requirement, the Department of Job and Family Services may use funds from appropriation item 600-658 to support public assistance activities.

SECTION 59.03. MEDICAID PROGRAM SUPPORT FUND - STATE

The foregoing appropriation item 600-671, Medicaid Program Support, shall be used by the Department of Job and Family Services to pay for Medicaid services and contracts. The Department may also deposit to Fund 5C9 revenues received from other state agencies for Medicaid services under the terms of interagency agreements between the Department and other state agencies.

SECTION 59.04. HEALTH CARE SERVICES ADMINISTRATION

The foregoing appropriation item 600-654, Health Care Services Administration, shall be used by the Department of Job and Family Services for costs associated with the administration of the Medicaid program.

SECTION 59.05. HEALTH CARE SERVICES ADMINISTRATION FUND

Of the amount received by the Department of Job and Family Services during fiscal year 2004 and fiscal year 2005 from the first installment of

assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

HOSPITAL CARE ASSURANCE MATCH FUND

Appropriation item 600-650, Hospital Care Assurance Match, shall be used by the Department of Job and Family Services in accordance with division (B) of section 5112.18 of the Revised Code.

SECTION 59.06. TANF FEDERAL BLOCK GRANT FUNDS AND TRANSFERS

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may seek Controlling Board approval to increase appropriations in appropriation item 600-689, TANF Block Grant, provided sufficient funds exist to do so without any corresponding decrease in other appropriation items. The Department of Job and Family Services shall provide the Director of Budget and Management and the Controlling Board with documentation to support the need for the increased appropriation.

All transfers of moneys from or charges against TANF Federal Block Grant awards for use in the Social Services Block Grant or the Child Care and Development Block Grant shall be done after the Department of Job and Family Services gives written notice to the Director of Budget and Management. The Department of Job and Family Services shall first provide the Director of Budget and Management with documentation to support the need for such transfers or charges for use in the Social Services Block Grant or in the Child Care and Development Block Grant.

Before the thirtieth day of September of each fiscal year, the Department of Job and Family Services shall file claims with the United States Department of Health and Human Services for reimbursement for all allowable expenditures for services provided by the Department of Job and Family Services, or other agencies that may qualify for Social Services Block Grant funding pursuant to Title XX of the Social Security Act.

On July 31, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balance remaining in Fund 3G0, Jobs Administration, to Fund 3V6, TANF Block Grant. Fund 3G0 shall be abolished once this transfer has been completed.

SECTION 59.07a. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES

Of the foregoing appropriation item 600-659, TANF/Title XX, \$625,000 in the fiscal year 2004-2005 biennium shall be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.

OHIO ASSOCIATION OF SECOND HARVEST FOOD BANKS

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), up to \$4,500,000 in each fiscal year shall be used by the Department of Job and Family Services to support expenditures to the Ohio Association of Second Harvest Food Banks according to the following criteria.

As used in this section, "federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

The Department of Job and Family Services shall provide an annual grant of \$4,500,000 in each of the fiscal years 2004 and 2005 to the Ohio Association of Second Harvest Food Banks. In each fiscal year, the Ohio Association of Second Harvest Food Banks shall use \$2,500,000 for the purchase of food products for the Ohio Food Program, of which up to \$105,000 may be used for food storage and transport, and shall use \$2,000,000 for the Agricultural Surplus Production Alliance Project. Funds provided for the Ohio Food Program shall be used to purchase food products and to distribute those food products to agencies participating in the emergency food distribution program. No funds provided through this grant may be used for administrative expenses other than funds provided for food storage and transport. As soon as possible after entering into a grant agreement at the beginning of each fiscal year, the Department of Job and Family Services shall distribute the grant funds in one single payment. The Ohio Association of Second Harvest Food Banks shall develop a plan for the distribution of the food products to local food distribution agencies. Agencies receiving these food products shall ensure that individuals and families who receive any of the food products purchased with these funds have an income at or below 150 per cent of the federal poverty guidelines. The Department of Job and Family Services and the Ohio Association of Second Harvest Food Banks shall agree on reporting requirements to be incorporated into the grant agreement.

The Ohio Association of Second Harvest Food Banks shall return any fiscal year 2004 funds from this grant remaining unspent on June 30, 2004, to the Department of Job and Family Services not later than November 1, 2004. The Ohio Association of Second Harvest Food Banks shall return any

fiscal year 2005 funds from the grant remaining unspent on June 30, 2005, to the Department of Job and Family Services no later than November 1, 2005.

SECTION 59.08.A.1. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), the Department of Job and Family Services shall use up to \$600,000 in each fiscal year to support expenditures of the Ohio Alliance of Boys and Girls Clubs to provide nutritional meals, snacks, and educational and enrichment services to children participating in programs and activities operated by eligible Boys and Girls Clubs.

The Department of Job and Family Services shall provide an annual grant of \$600,000 in each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As soon as possible after entering into a grant agreement at the beginning of each fiscal year, the Department of Job and Family Services shall distribute the grant funds in one single payment. The Department of Job and Family Services and the Ohio Alliance of Boys and Girls Clubs shall agree on reporting requirements to be incorporated into the grant agreement.

The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2004 funds from the grant remaining unspent on June 30, 2004, to the Ohio Department of Job and Family Services not later than November 1, 2004. The Ohio Alliance of Boys and Girls Clubs shall return any fiscal year 2005 funds from this grant remaining unspent on June 30, 2005, to the Ohio Department of Job and Family Services not later than November 1, 2005.

SECTION 59.09b. ADULT PROTECTIVE SERVICES

Of the foregoing appropriation item 600-659, TANF/Title XX (Fund 3W3), up to \$2,700,000 in each fiscal year shall be used by the Department of Job and Family Services to reimburse county departments of job and family services for all or part of the costs they incur in providing adult protective services pursuant to sections 5101.60 to 5101.71 of the Revised Code.

SECTION 59.10. In order to assure that the Maintenance of Effort funding for the TANF block grant is sufficient, the Director of Job and Family Services may request that the Director of Budget and Management transfer

cash from Fund 5T2, Child Support Special Payment, to Fund 4A8, Child Support Collections, as needed. This additional funding is hereby appropriated.

SECTION 59.11. PRESCRIPTION DRUG REBATE FUND

The foregoing appropriation item 600-692, Health Care Services, shall be used by the Department of Job and Family Services in accordance with section 5111.081 of the Revised Code. Moneys recovered by the Department pursuant to the Department's rights of recovery under section 5101.58 of the Revised Code, that are not directed to the Health Care Services Administration Fund (Fund 5U3) pursuant to section 5111.94 of the Revised Code shall also be deposited into Fund 5P5.

SECTION 59.12. ODJFS FUNDS

AGENCY FUND GROUP

The Agency Fund Group shall be used to hold revenues until the appropriate fund is determined or until they are directed to the appropriate governmental agency other than the Department of Job and Family Services. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 600-643, Refunds and Audit Settlements, and 600-644, Forgery Collections, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

SECTION 59.13. CONSOLIDATED FUNDING ALLOCATION FOR COUNTY DEPARTMENTS OF JOB AND FAMILY SERVICES

Using the foregoing appropriation items 600-521, Family Stability Subsidy; 600-659, TANF/Title XX; 600-610, Food Stamps and State Administration; 600-410, TANF State; 600-689, TANF Block Grant; 600-620, Social Services Block Grant; 600-523, Children and Families Subsidy; 600-413, Child Care Match/Maintenance of Effort; 600-617, Child Care Federal; 600-623, Health Care Federal; and 600-614, Refugees Services, the Department of Job and Family Services may establish a consolidated allocation for county departments of job and family services to

the extent authorized by Sections 5101.21 and 5101.211 of the Revised Code and rules adopted under Section 5101.21 of the Revised Code. The county department is not required to use all the money from one or more of the appropriation items listed in this paragraph for the purpose for which the specific appropriation item is made so long as the county department uses the money for a purpose for which at least one of the other of those appropriation items is made. The county department may not use the money in the consolidated allocation for a purpose other than a purpose any of those appropriation items are made. The county department shall use the money in the consolidated allocation in accordance with section 5101.21 of the Revised Code and rules adopted under that section.

If the spending estimates used in establishing the single allocation are not realized and the county department uses money in one or more of those appropriation items in a manner for which federal financial participation is not available, the department shall use state funds available in one or more of those appropriation items to ensure that the county department receives the full amount of its allocation and complete a reconciliation at the end of the fiscal year to appropriately align cash draws with expenditures related to state and federal claims.

To facilitate this reconciliation, before the thirty-first day of May of the current fiscal year and after the conclusion of the county reconciliation process for the previous fiscal year, the Director of Job and Family Services may request that the Director of Budget and Management transfer cash between the funds that make-up the consolidated allocation to the county departments of job and family services. The consolidated allocation is the maximum amount the county department shall receive from those appropriation items.

A county department not receiving a consolidated allocation shall comply with section 5101.213 of the Revised Code and the rules adopted under that section.

SECTION 59.14. TRANSFER OF FUNDS

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and Community-Based Services, in the Ohio Department of Mental Retardation and Developmental Disabilities. The sum of the transfers shall equal \$12,000,000 in fiscal year 2004 and \$12,000,000 in fiscal year 2005. The transfer may occur on a

quarterly basis or on a schedule developed and agreed to by both departments.

The Department of Job and Family Services shall transfer, through intrastate transfer vouchers, cash from the State Special Revenue Fund 4J5, Home and Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in the Department of Aging. The sum of the transfers shall be \$33,268,052 in fiscal year 2004 and \$33,263,984 in fiscal year 2005. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments.

TRANSFERS OF IMD/DSH CASH

The Department of Job and Family Services shall transfer, through intrastate transfer voucher, cash from fund 5C9, Medicaid Program Support, to the Department of Mental Health's Fund 4X5, OhioCare, in accordance with an interagency agreement which delegates authority from the Department of Job and Family Services to the Department of Mental Health to administer specified Medicaid services.

SECTION 59.15. EMPLOYER SURCHARGE

The surcharge and the interest on the surcharge amounts due for calendar years 1988, 1989, and 1990 as required by Am. Sub. H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 118th General Assembly, and section 4141.251 of the Revised Code as it existed prior to Sub. H.B. 478 of the 122nd General Assembly, again shall be assessed and collected by, accounted for, and made available to the Department of Job and Family Services in the same manner as set forth in section 4141.251 of the Revised Code as it existed prior to Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the repeal of the surcharge for calendar years after 1990, pursuant to Sub. H.B. 478 of the 122nd General Assembly, except that amounts received by the Director on or after July 1, 2001, shall be deposited into the special administrative fund established pursuant to section 4141.11 of the Revised Code.

SECTION 59.16. FUNDING FOR HABILITATIVE SERVICES

Notwithstanding any limitations contained in sections 5112.31 and 5112.37 of the Revised Code, in each fiscal year, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed for transfers to Fund 4K8 may be used by the Department of Job and Family Services to cover costs of care provided to participants in a waiver with an ICF/MR level of care requirement administered by the Department

of Job and Family Services.

SECTION 59.17. FUNDING FOR INSTITUTIONAL FACILITY AUDITS AND THE OHIO ACCESS SUCCESS PROJECT

Notwithstanding any limitations in sections 3721.51 and 3721.56 of the Revised Code, in each fiscal year, cash from the State Special Revenue Fund 4J5, Home and Community-Based Services for the Aged, in excess of the amounts needed for the transfers may be used by the Department of Job and Family Services for the following purposes: (A) up to \$1.0 million in each fiscal year to fund the state share of audits of Medicaid cost reports filed with the Department of Job and Family Services by nursing facilities and intermediate care facilities for the mentally retarded; and (B) up to \$350,000 in fiscal year 2004 and up to \$350,000 in fiscal year 2005 to provide one-time transitional benefits under the Ohio Access Success Project that the Director of Job and Family Services may establish under section 5111.88 of the Revised Code.

SECTION 59.18. REFUND OF SETS PENALTY

The Department of Job and Family Services shall deposit any refunds for penalties that were paid directly or indirectly by the state for the Support Enforcement Tracking System (SETS) to Fund 3V6, TANF Block Grant.

SECTION 59.19. PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY

The Director of Job and Family Services may submit to the United States Secretary of Health and Human Services a request to transfer the day-to-day administration of the Program of All-Inclusive Care for the Elderly, known as PACE, in accordance with 42 U.S.C. 1396u-4, to the Department of Aging. If the United States Secretary approves the transfer, the Directors of Job and Family Services and Aging may enter into an interagency agreement under section 5111.86 of the Revised Code to transfer responsibility for the day-to-day administration of PACE from the Department of Job and Family Services to the Department of Aging. The interagency agreement is subject to the approval of the Director of Budget and Management and shall include an estimated cost of services to be provided under PACE and an estimated cost for the administrative duties assigned by the agreement to the Department of Aging.

If the Directors of Job and Family Services and Aging enter into the

interagency agreement, the Director of Budget and Management shall reduce the amount in appropriation item 600-525, Health Care/Medicaid, by the estimated costs of PACE. If the Director of Budget and Management makes the reduction, the state and federal share of the estimated costs of PACE services and administration is hereby appropriated to the Department of Aging. The Director of Budget and Management shall establish a new appropriation item for the appropriation.

SECTION 59.20. APPROPRIATIONS FROM FUND 3V0

Upon the request of the Department of Job and Family Services, the Director of Budget and Management may increase appropriations in either appropriation item 600-662, WIA Ohio Option #7, Fund 3V0 or in appropriation item 600-688, Workforce Investment Act, Fund 3V0, with a corresponding decrease in the other appropriation item supported by Fund 3V0 to allow counties that administer the Workforce Investment Act as a conventional county to administer the Act as an Ohio Option county or to allow counties that administer the Workforce Investment Act as an Ohio Option county to administer the Act as a conventional county.

JOBS FOR OHIO GRADUATES PROGRAM

Pursuant to an interagency agreement entered into between the Department of Job and Family Services and the Department of Education, \$3,500,000 from Workforce Investment Act funds (Fund 3V0), reserved for statewide workforce investment activities, in fiscal year 2004 and fiscal year 2005, shall be used to support the Jobs for Ohio Graduates programs administered by the Department of Education.

WORKFORCE DEVELOPMENT GRANT AGREEMENT

The Department of Job and Family Services may use appropriations from appropriation item 600-662, WIA Ohio Option #7, or from appropriation item 600-688, Workforce Investment Act, to provide financial assistance for workforce development activities included in a grant agreement entered into by the department in accordance with section 5101.20 of the Revised Code.

SECTION 59.21. FEDERAL UNEMPLOYMENT PROGRAMS

There is hereby appropriated out of funds made available to the state under section 903(d) of the Social Security Act, as amended, \$53,700,000 for fiscal year 2004 and \$47,300,000 for fiscal year 2005. Upon the request

of the Director of Job and Family Services, the Director of Budget and Management shall increase the appropriation for fiscal year 2004 by the amount remaining unspent from the fiscal year 2003 appropriation and shall increase the appropriation for fiscal year 2005 by the amount remaining unspent from the fiscal year 2004 appropriation. The appropriation is to be used under the direction of the Department of Job and Family Services to pay for administrative activities for the Unemployment Insurance Program, employment services, and other allowable expenditures under section 903(d) of the Social Security Act, as amended.

The amounts obligated pursuant to this section shall not exceed at any time the amount by which the aggregate of the amounts transferred to the account of the state pursuant to section 903(d) of the Social Security Act, as amended, exceeds the aggregate of the amounts obligated for administration and paid out for benefits and required by law to be charged against the amounts transferred to the account of the state.

Of the appropriation item 600-678, Federal Unemployment Programs, in Section 63 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended, up to \$18,000,000 in fiscal year 2004 and up to \$18,000,000 in fiscal year 2005 shall be used by the Department of Job and Family Services to reimburse the General Revenue Fund, through state intrastate transfer vouchers, for expenses incurred on or after the effective date of this section from the General Revenue Fund for the aforementioned programs as reported to the federal government as allowable expenditures.

SECTION 59.22. MEDICAID PAYMENT TO CHILDREN'S HOSPITALS

As used in this section, "children's hospital" has the same meaning as in section 3702.51 of the Revised Code.

For fiscal years 2004 and 2005, the Medicaid payment to children's hospitals shall include the adjustment for inflation provided for by paragraph (G) of rule 5101:3-2-074 of the Administrative Code as that paragraph existed on December 30, 2002.

The Department of Job and Family Services shall pay to each children's hospital participating in the Medicaid program an amount equal to the difference between (1) the amount the hospital would have been paid under rule 5101:3-2-074 of the Administrative Code for the period beginning January 1, 2003, and ending May 31, 2003, if the amendment to paragraph (G) of that rule that went into effect on December 31, 2002, had not gone into effect and (2) the amount that the hospital was paid under that rule for that period.

SECTION 59.23. MEDICAID PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES

As used in this section, "hospital" does not include a children's hospital as defined in the section of this act titled MEDICAID PAYMENT TO CHILDREN'S HOSPITALS.

The Department of Job and Family Services shall increase the total amount the Department pays all hospitals under the Medicaid Program for outpatient services provided during the period beginning July 1, 2003, and ending June 30, 2004, to the maximum extent possible using \$9,811,136 from the foregoing appropriation item 600-525, Health Care/Medicaid. The Department of Job and Family Services shall also increase the total amount the Department pays all hospitals under the Medicaid Program for outpatient services provided during the period beginning July 1, 2004, and ending June 30, 2005, to the maximum extent possible using \$9,811,136 from the foregoing appropriation item 600-525, Health Care/Medicaid. The Department shall make the increase in accordance with an inflation adjustment factor for outpatient hospital services established in rules the Director of Job and Family Services shall adopt in accordance with Chapter 119. of the Revised Code.

SECTION 59.24. CHILD CARE

(A) Notwithstanding any other provision of law, the Director of Job and Family Services shall not reduce the initial and continued eligibility level for publicly funded child care below one hundred fifty per cent of the federal poverty line during fiscal years 2004 and 2005.

(B) Notwithstanding division (B) of section 5104.39 of the Revised Code, the Director of Job and Family Services shall not, during fiscal years 2004 and 2005, disenroll publicly funded child care program participants who have incomes at or below 165 per cent of the federal poverty line and do not otherwise cease to qualify for the program, if one of the following applies:

- (1) The family enrolled in the program before June 9, 2003;
- (2) The family enrolled in the program when the family's income was at or below 150 per cent of the federal poverty line.

SECTION 59.25. MEDICAID COVERAGE OF DENTAL SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to

cover dental services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of dental services adopted under section 5111.02 of the Revised Code.

SECTION 59.26. MEDICAID COVERAGE OF VISION SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover vision care services in at least the amount, duration, and scope that it does on the effective date of this section under rules governing Medicaid coverage of vision care services under section 5111.02 of the Revised Code.

SECTION 59.27. MEDICAID COVERAGE OF PODIATRIC SERVICES

For fiscal years 2004 and 2005, the Medicaid program shall continue to cover podiatric services in at least the amount, scope, and duration that it does on the effective date of this section under rules governing Medicaid coverage of podiatric services adopted under section 5111.02 of the Revised Code.

SECTION 59.28. WELFARE DIVERSION PROGRAMS

Of the foregoing appropriation item 600-521, Family Stability Subsidy, prior to county distribution, \$1,250,000 in each fiscal year shall be used to support specific welfare diversion programs. In each fiscal year, Accountability and Credibility Together (ACT) shall receive \$1,000,000 of the \$1,250,000 to continue its welfare diversion program. In each fiscal year, \$250,000 of the \$1,250,000 shall be used to establish a welfare diversion demonstration project in Butler County. The demonstration project shall be administered by the Butler County United Way.

SECTION 59.29. OHIO COMMISSION TO REFORM MEDICAID

There is hereby established the Ohio Commission to Reform Medicaid, which shall consist of nine members: three appointed by the Governor, three by the Speaker of the House of Representatives, and three by the President of the Senate. Appointments shall be made not later than ninety days after the effective date of this section. All members shall serve at the pleasure of the appointing authority. Members shall serve without compensation. Vacancies shall be filled in the manner of original appointments.

The Commission shall conduct a complete review of the state Medicaid program and shall make recommendations for comprehensive reform and

cost containment. The Commission shall submit a report of its findings and recommendations to the Governor, Speaker, and Senate President not later than January 1, 2005.

The Commission may hire a staff director and additional employees to provide technical support.

The Director of Job and Family Services shall, on behalf of the Commission, seek federal financial participation for the administrative costs of the Commission.

SECTION 59.30. (A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) Except as provided in divisions (C) and (D) of this section and notwithstanding Chapter 5111. of the Revised Code, the number of intermediate care facility for the mentally retarded beds eligible for Medicaid payments during fiscal years 2004 and 2005 shall not be higher than the number of such beds eligible for such payments on the effective date of this section. Not later than July 15, 2003, the Department of Job and Family Services shall inform the Office of Budget and Management how many intermediate care facility for the mentally retarded beds are eligible for Medicaid payments on the effective date of this section.

(C) The Department of Job and Family Services may issue one or more waivers of division (B) of this section in the event that an emergency, as determined by the Department, exists. In determining whether to issue a waiver, the Department of Job and Family Services shall consider the recommendation of the Department of Mental Retardation and Developmental Disabilities.

(D) A bed in an intermediate care facility for the mentally retarded that obtains a residential facility license under section 5123.19 of the Revised Code pursuant to section 5123.1910 of the Revised Code and is otherwise eligible to receive Medicaid payments may receive Medicaid payments during fiscal years 2004 and 2005 regardless of whether that will result in there being more beds eligible for Medicaid payments than is permitted by division (B) of this section.

SECTION 59.31. DISABILITY ASSISTANCE TRANSITION

(A) Subject to the provisions of Chapter 5115. of the Revised Code, as amended, enacted, and repealed by this act, the Disability Financial Assistance Program constitutes a continuation of the financial assistance

component of the Disability Assistance Program established under Chapter 5115. of the Revised Code, as it existed prior to the effective date of this section, and the Disability Medical Assistance Program constitutes a continuation of the medical assistance component of the Disability Assistance Program.

Any business commenced but not completed on behalf of the Disability Assistance Program shall be completed in the same manner, and with the same effect, on behalf of the Disability Financial Assistance Program and the Disability Medical Assistance Program.

Except as provided in divisions (B) and (C) of this section, all rules, orders, and determinations regarding the Disability Assistance Program continue in effect as rules, orders, and determinations regarding the Disability Financial Assistance Program and the Disability Medical Assistance Program, until modified or rescinded.

Wherever the Disability Assistance Program is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Disability Financial Assistance Program or the Disability Medical Assistance Program, whichever is appropriate.

(B) Notwithstanding any determination through administrative or judicial order or otherwise, a person who was receiving financial assistance under the Disability Assistance Program prior to the effective date of this section ceases to be eligible for continued financial assistance under the Disability Financial Assistance Program on the effective date of this section, unless one of the following is the case:

(1) The person was receiving the assistance on the basis of being age 60 or older or on the basis of being unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months.

(2) The person was receiving the assistance by meeting other eligibility requirements but applies for Disability Financial Assistance pursuant to section 5115.05 of the Revised Code, as amended by this act, and receives a determination of eligibility by meeting the requirements specified in section 5115.01 of the Revised Code, as amended by this act.

(C) Notwithstanding the provisions of section 5115.10 of the Revised Code, as amended by this act, that limit eligibility for disability medical assistance to persons determined to be medication dependent, both of the following apply:

(1) The Director of Job and Family Services may adopt rules in accordance with section 111.15 of the Revised Code providing for and

governing temporary provision of disability medical assistance to persons who were recipients of medical assistance under the Disability Assistance Program prior to the effective date of this section.

(2) A person's eligibility for disability medical assistance may continue pursuant to the rules adopted under division (C)(1) of this section until the state or county department of job and family services conducts a redetermination of the person's eligibility in accordance with the requirement that recipients be medication dependent, unless the person otherwise becomes ineligible for disability medical assistance.

SECTION 59.32. DISABILITY FINANCIAL ASSISTANCE FOR RESIDENTS OF TREATMENT CENTERS

Notwithstanding any other law to the contrary, up to \$2,176,269 in appropriation item 600-511, Disability Financial Assistance, shall be used in each fiscal year for services for residents of residential treatment centers certified as an alcohol or drug addiction program by the Department of Alcohol and Drug Addiction Services under section 3793.06 of the Revised Code.

SECTION 59.33. Of the foregoing appropriation item 600-689, TANF Block Grant, \$57,170,000 in fiscal year 2004 shall be used for the Head Start Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to provide Head Start slots in fiscal year 2004 that would otherwise not be available.

Of the foregoing appropriation item 600-689, TANF Block Grant, \$108,184,000 in fiscal year 2005 shall be used for the Head Start Plus Program pursuant to an interagency agreement entered into by Department of Job and Family Services and the Department of Education under division (A)(2) of section 5101.801 of the Revised Code. Of that amount, \$5,000,000 shall be used to ensure that Head Start Plus provider payments reflect service rendered in fiscal year 2005.

SECTION 59.34. STUDY OF MEDICAID COVERAGE FOR BREAST AND CERVICAL CANCER TREATMENT

(A) The Department of Job and Family Services shall conduct a study of the feasibility of expanding the Medicaid coverage provided under section

5111.0110 of the Revised Code pursuant to the "Breast and Cervical Cancer Prevention and Treatment Act of 2000," 114 Stat. 1381, 42 U.S.C. 1396a, as amended. In particular, the Department shall study the extension of coverage to women who receive breast and cervical cancer screenings that are not directly paid for with federal funds obtained under Title XV of the "Public Health Service Act," 104 Stat. 409 (1990), 42 U.S.C., as amended. The study of this extension shall include consideration of both of the following options, as specified by the federal Centers for Medicare and Medicaid Services:

(1) Coverage of women who have been screened under a Title XV-funded Centers for Disease Control and Prevention Breast and Cervical Cancer Early Detection Program in which their particular clinical services were not paid for with Title XV funds, but the services were rendered by a provider or an entity funded at least in part with Title XV funds, and the services were within the scope of a grant, sub-grant, or contract under the breast and cervical cancer early detection program and the Title XV grantee has elected to include such screening activities by that provider or entity as screening activities pursuant to Title XV;

(2) Coverage of women who have been screened by any other provider or entity and the Title XV grantee has elected to include screening activities by that provider or entity as screening activities pursuant to Title XV.

(B) Not later than June 1, 2004, the Department shall complete its study and prepare a report of its findings and recommendations. The Department shall submit a copy of its report to the President of the Senate, Speaker of the House of Representatives, and Director of Budget and Management. Copies of the report shall be made available to the public on request.

SECTION 59.35. Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2004 and 2005 to food stamp benefit recipients who reside in a county of this state that the Department determines has had an unemployment rate of over 10 per cent for each of the four months before the month in which the waiver is in effect for the county. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of nine months beginning July 1, 2003, and ending June 30, 2005.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate

on receipt or rejection of the waiver sought under this section.

SECTION 59.36. MEDICAID PER DIEM ADJUSTMENTS FOR
ICFs/MR

(A) As used in this section:

(1) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in an intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the intermediate care facility for the mentally retarded's per resident per day rate paid for those days.

(3) "Per diem rate" means the per diem rate calculated pursuant to Chapter 5111. of the Revised Code.

(B) Notwithstanding Chapter 5111. of the Revised Code, rates paid to intermediate care facilities for the mentally retarded under the Medicaid program shall be subject to the following limitations:

(1) For fiscal year 2004, the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state, weighted by May 2003 Medicaid days and calculated as of July 1, 2003, shall not exceed \$221.43.

(2) For fiscal year 2005, the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state, weighted by May 2004 Medicaid days and calculated as of July 1, 2004, shall not exceed \$225.86.

(3) If the mean total per diem rate for all intermediate care facilities for the mentally retarded in the state for fiscal year 2004 or 2005, weighted by Medicaid days as specified in division (B)(1) or (2) of this section, as appropriate, and calculated as of the first day of July of the calendar year in which the fiscal year begins, exceeds the amount specified in division (B)(1) or (2) of this section, as applicable, the Department of Job and Family Services shall reduce the total per diem rate for each intermediate care facility for the mentally retarded in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the amount specified in division (B)(1) or (2) of this section for that fiscal year.

(4) Subsequent to any reduction required by division (B)(3) of this section, the rate of an intermediate care facility for the mentally retarded shall be subject to any adjustments required or authorized by Chapter 5111. of the Revised Code during the remainder of the year.

SECTION 59.37. MEDICAID PER DIEM ADJUSTMENTS FOR NURSING FACILITIES

(A) As used in this section:

(1) "Medicaid days" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(3) "Per diem rate" means the per diem rate calculated pursuant to Chapter 5111. of the Revised Code and includes the payments made to nursing facilities under division (B) of section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by this act.

(B) Notwithstanding Chapter 5111. of the Revised Code, rates paid to nursing facilities under the Medicaid program shall be subject to the following limitations:

(1) For fiscal year 2004, the mean total per diem rate for all nursing facilities in the state, weighted by May 2003 Medicaid days and calculated as of July 1, 2003, shall not exceed \$156.68.

(2) For fiscal year 2005, the mean total per diem rate for all nursing facilities in the state, weighted by May 2004 Medicaid days and calculated as of July 1, 2004, shall not exceed \$159.00, plus any difference between \$156.68 and the mean total per diem rate for all nursing facilities in the state for fiscal year 2004, weighted by Medicaid days and calculated as of July 1, 2003.

(3) If the mean total per diem rate for all nursing facilities in the state for fiscal year 2004 or 2005, weighted by Medicaid days as specified in division (B)(1) or (2) of this section, as appropriate, and calculated as of the first day of July of the calendar year in which the fiscal year begins, exceeds the amount specified for that fiscal year in division (B)(1) or (2) of this section, the Department of Job and Family Services shall reduce the total per diem rate for each nursing facility in the state by a percentage that is equal to the percentage by which the mean total per diem rate exceeds the amount specified in division (B)(1) or (2) of this section for that fiscal year.

(4) Subsequent to any reduction required by division (B)(3) of this section, a nursing facility's rate shall be subject to any adjustments required

or authorized by Chapter 5111. of the Revised Code during the remainder of the fiscal year.

(C) Except as follows, the Department of Job and Family Services shall continue to implement rules adopted under Chapter 5111. of the Revised Code regarding Medicaid payments to nursing facilities that are in effect on the effective date of this section:

(1) The Department shall not continue to implement a rule that is inconsistent with this act, but shall instead implement this act.

(2) The Department may adopt, amend, or rescind rules under Chapter 5111. of the Revised Code as provided by those sections to the extent those sections are consistent with this act.

SECTION 60. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund

GRF 018-321	Operating Expenses	\$	962,000	\$	957,000
TOTAL GRF General Revenue Fund		\$	962,000	\$	957,000

General Services Fund Group

403 018-601	Ohio Jury Instructions	\$	200,000	\$	200,000
TOTAL GSF General Services Fund Group		\$	200,000	\$	200,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,162,000	\$	1,157,000

STATE COUNCIL OF UNIFORM STATE LAWS

Notwithstanding section 105.26 of the Revised Code, of the foregoing appropriation item 018-321, Operating Expenses, up to \$63,000 in fiscal year 2004 and up to \$66,000 in fiscal year 2005 may be used to pay the expenses of the State Council of Uniform State Laws, including membership dues to the National Conference of Commissioners on Uniform State Laws.

OHIO JURY INSTRUCTIONS FUND

The Ohio Jury Instructions Fund (Fund 403) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing educational and informational data to the state's judicial system. Fund 403 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the state's judicial system. All moneys accruing to Fund 403 in excess of \$200,000 in fiscal year 2004 and in excess of \$200,000 in fiscal year 2005 are hereby appropriated for the purposes authorized.

No money in the Ohio Jury Instructions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 61. JSC THE JUDICIARY/SUPREME COURT

General Revenue Fund

GRF 005-321	Operating Expenses - Judiciary/Supreme Court	\$	113,636,659	\$	118,401,294
GRF 005-401	State Criminal Sentencing Council	\$	346,194	\$	356,371
GRF 005-406	Law-Related Education	\$	209,836	\$	216,131
TOTAL GRF General Revenue Fund		\$	114,192,689	\$	118,973,796

General Services Fund Group

672 005-601	Continuing Judicial Education	\$	126,000	\$	120,000
TOTAL GSF General Services Fund Group		\$	126,000	\$	120,000

Federal Special Revenue Fund Group

3J0 005-603	Federal Grants	\$	1,030,061	\$	1,030,061
TOTAL FED Federal Special Revenue Fund Group		\$	1,030,061	\$	1,030,061

State Special Revenue Fund Group

4C8 005-605	Attorney Registration	\$	2,332,733	\$	2,495,171
5T8 005-609	Grants and Awards	\$	33,296	\$	33,296
6A8 005-606	Supreme Court Admissions	\$	1,230,514	\$	1,267,428
643 005-607	Commission on Continuing Legal Education	\$	568,788	\$	587,210
TOTAL SSR State Special Revenue Fund Group		\$	4,165,331	\$	4,383,105
TOTAL ALL BUDGET FUND GROUPS		\$	119,514,081	\$	124,506,962

LAW-RELATED EDUCATION

The foregoing appropriation item 005-406, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

CONTINUING JUDICIAL EDUCATION

The Continuing Judicial Education Fund (Fund 672) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005-601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Continuing Judicial Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Judicial

Education Fund shall be credited to the fund.

FEDERAL GRANTS

The Federal Grants Fund (Fund 3J0) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005-603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Federal Grants Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Federal Grants Fund shall be credited or transferred to the General Revenue Fund.

ATTORNEY REGISTRATION

In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005-605, Attorney Registration, may be used to compensate employees and fund the appropriate activities of the following offices established by the Supreme Court pursuant to the Rules for the Government of the Bar of Ohio: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, the Board of Commissioners on the Unauthorized Practice of Law, and the Office of Attorney Registration. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Attorney Registration Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Attorney Registration Fund shall be credited to the fund.

GRANTS AND AWARDS

The Grants and Awards Fund (Fund 5T8) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the State Justice Institute, the Office of Criminal Justice Services, or other entities. The foregoing appropriation item 005-609, Grants and Awards, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Grants and Awards Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Grants and Awards Fund shall be credited or transferred to the General Revenue Fund.

SUPREME COURT ADMISSIONS

The foregoing appropriation item 005-606, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program, pursuant to the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme Court Rules for the Government of the Bar of Ohio. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Supreme Court Admissions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Supreme Court Admissions Fund shall be credited to the fund.

CONTINUING LEGAL EDUCATION

The foregoing appropriation item 005-607, Commission on Continuing Legal Education, shall be used to compensate employees of the Commission on Continuing Legal Education, established pursuant to the Supreme Court Rules for the Government of the Bar of Ohio, and to fund other activities of the commission considered appropriate by the court. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Continuing Legal Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Legal Education Fund shall be credited to the fund.

SECTION 62. LEC LAKE ERIE COMMISSION

State Special Revenue Fund Group

4C0 780-601	Lake Erie Protection Fund	\$	1,070,975	\$	1,070,975
5D8 780-602	Lake Erie Resources Fund	\$	689,004	\$	689,004
TOTAL SSR State Special Revenue Fund Group		\$	1,759,979	\$	1,759,979
TOTAL ALL BUDGET FUND GROUPS		\$	1,759,979	\$	1,759,979

CASH TRANSFER

Not later than the thirtieth day of November of each fiscal year, the

Executive Director of the Ohio Lake Erie Office, with the approval of the Lake Erie Commission, shall certify to the Director of Budget and Management the cash balance in the Lake Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet operating expenses of the Lake Erie Office. The Ohio Lake Erie Office may request the Director of Budget and Management to transfer up to the certified amount from the Lake Erie Resources Fund (Fund 5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of Budget and Management may transfer the requested amount, or the Director may transfer a different amount up to the certified amount. Cash transferred shall be used for the purposes described in division (A) of section 1506.23 of the Revised Code. The amount transferred by the director is appropriated to the foregoing appropriation item 780-601, Lake Erie Protection Fund, which shall be increased by the amount transferred.

SECTION 63. LRS LEGAL RIGHTS SERVICE

General Revenue Fund

GRF 054-100	Personal Services	\$	193,514	\$	193,514
GRF 054-200	Maintenance	\$	33,938	\$	33,938
GRF 054-300	Equipment	\$	1,856	\$	1,856
GRF 054-401	Ombudsman	\$	291,247	\$	291,247
TOTAL GRF General Revenue Fund		\$	520,555	\$	520,555

General Services Fund Group

416 054-601	Gifts and Donations	\$	1,352	\$	1,352
5M0 054-610	Settlements	\$	75,000	\$	75,000
TOTAL GSF General Services Fund Group		\$	76,352	\$	76,352

Federal Special Revenue Fund Group

3B8 054-603	Protection and Advocacy - Mentally Ill	\$	1,018,279	\$	1,018,279
3N3 054-606	Protection and Advocacy - Individual Rights	\$	507,648	\$	507,648
3N9 054-607	Assistive Technology	\$	50,000	\$	50,000
3R9 054-604	Family Support Collaborative	\$	242,500	\$	242,500
3T2 054-609	Client Assistance Program	\$	404,807	\$	404,807
3X1 054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784
3Z6 054-612	Traumatic Brain Injury	\$	50,000	\$	50,000
305 054-602	Protection and Advocacy - Developmentally Disabled	\$	1,280,363	\$	1,280,363
TOTAL FED Federal Special Revenue Fund Group		\$	3,741,381	\$	3,741,381
TOTAL ALL BUDGET FUND GROUPS		\$	4,338,288	\$	4,338,288

SECTION 64. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

General Revenue Fund

GRF 028-321	Legislative Ethics Committee	\$	550,000	\$	550,000
TOTAL GRF General Revenue Fund		\$	550,000	\$	550,000
TOTAL ALL BUDGET FUND GROUPS		\$	550,000	\$	550,000

TRANSFER OF FUNDS TO GRF

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer 50 per cent of the cash balance in the Joint Legislative Ethics Committee Fund (Fund 4G7) to the General Revenue Fund. On July 1, 2004, or as soon thereafter as possible, the Director of Budget and Management shall transfer all of the remaining cash balance in the Joint Legislative Ethics Committee Fund (Fund 4G7) to the General Revenue Fund.

SECTION 65. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund

GRF 035-321	Operating Expenses	\$	14,065,000	\$	14,770,000
GRF 035-402	Legislative Interns	\$	975,000	\$	990,000
GRF 035-404	Legislative Office of Education Oversight	\$	1,205,000	\$	1,256,427
GRF 035-405	Correctional Institution Inspection Committee	\$	200,000	\$	300,000
GRF 035-406	ATMS Replacement Project	\$	20,000	\$	20,000
GRF 035-407	Legislative Task Force on Redistricting	\$	100,000	\$	0
GRF 035-409	National Associations	\$	430,000	\$	441,000
GRF 035-410	Legislative Information Systems	\$	3,624,200	\$	3,624,200
TOTAL GRF General Revenue Fund		\$	20,619,200	\$	21,401,627

General Services Fund Group

4F6 035-603	Legislative Budget Services	\$	149,350	\$	152,337
410 035-601	Sale of Publications	\$	25,000	\$	25,000
TOTAL GSF General Services Fund Group		\$	174,350	\$	177,337
TOTAL ALL BUDGET FUND GROUPS		\$	20,793,550	\$	21,578,964

ATMS REPLACEMENT PROJECT

Of the foregoing appropriation item 035-406, ATMS Replacement Project, any amounts not used for the ATMS project may be used to pay the operating expenses of the Legislative Service Commission.

SECTION 66. LIB STATE LIBRARY BOARD

General Revenue Fund

GRF 350-321	Operating Expenses	\$	6,700,721	\$	6,700,721

Am. Sub. H. B. No. 95

1998

GRF 350-400	Ohio Public Library Information Network	\$	0	\$	5,000,000
GRF 350-401	Ohioana Rental Payments	\$	124,816	\$	124,816
GRF 350-501	Cincinnati Public Library	\$	584,414	\$	569,803
GRF 350-502	Regional Library Systems	\$	1,194,374	\$	1,194,374
GRF 350-503	Cleveland Public Library	\$	879,042	\$	857,066
TOTAL GRF General Revenue Fund		\$	9,483,367	\$	14,446,780
General Services Fund Group					
139 350-602	Intra-Agency Service Charges	\$	9,000	\$	9,000
4S4 350-604	OPLIN Technology	\$	6,450,000	\$	1,000,000
459 350-602	Interlibrary Service Charges	\$	2,759,661	\$	2,809,661
TOTAL GSF General Services Fund Group		\$	9,218,661	\$	3,818,661
Federal Special Revenue Fund Group					
313 350-601	LSTA Federal	\$	5,541,647	\$	5,541,647
TOTAL FED Federal Special Revenue Fund Group		\$	5,541,647	\$	5,541,647
TOTAL ALL BUDGET FUND GROUPS		\$	24,243,675	\$	23,807,088

OHIOANA RENTAL PAYMENTS

The foregoing appropriation item 350-401, Ohioana Rental Payments, shall be used to pay the rental expenses of the Martha Kinney Cooper Ohioana Library Association pursuant to section 3375.61 of the Revised Code.

CINCINNATI PUBLIC LIBRARY

The foregoing appropriation item 350-501, Cincinnati Public Library, shall be used for the Talking Book program, which assists the blind and disabled.

REGIONAL LIBRARY SYSTEMS

The foregoing appropriation item 350-502, Regional Library Systems, shall be used to support regional library systems eligible for funding under section 3375.90 of the Revised Code.

CLEVELAND PUBLIC LIBRARY

The foregoing appropriation item 350-503, Cleveland Public Library, shall be used for the Talking Book program, which assists the blind and disabled.

OHIO PUBLIC LIBRARY INFORMATION NETWORK

The foregoing appropriation items 350-604, OPLIN Technology, and, in fiscal year 2005, 350-400, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may be certified as participants by the Ohio Public Library Information Network Board.

The Ohio Public Library Information Network Board shall consist of eleven members appointed by the State Library Board from among the staff of public libraries and past and present members of boards of trustees of

public libraries, based on the recommendations of the Ohio library community. The Ohio Public Library Information Network Board, in consultation with the State Library, shall develop a plan of operations for the network. The board may make decisions regarding use of the foregoing OPLIN appropriation items 350-604 and may receive and expend grants to carry out the operations of the network in accordance with state law and the authority to appoint and fix the compensation of a director and necessary staff. The State Library shall be the fiscal agent for the network and shall have fiscal accountability for the expenditure of funds. The Ohio Public Library Information Network Board members shall be reimbursed for actual travel and necessary expenses incurred in carrying out their responsibilities.

In order to limit access to obscene and illegal materials through internet use at Ohio Public Library Information Network (OPLIN) terminals, local libraries with OPLIN computer terminals shall adopt policies that control access to obscene and illegal materials. These policies may include use of technological systems to select or block certain internet access. The OPLIN shall condition provision of its funds, goods, and services on compliance with these policies. The OPLIN Board shall also adopt and communicate specific recommendations to local libraries on methods to control such improper usage. These methods may include each library implementing a written policy controlling such improper use of library terminals and requirements for parental involvement or written authorization for juvenile internet usage.

The OPLIN Board shall research and assist or advise local libraries with regard to emerging technologies and methods that may be effective means to control access to obscene and illegal materials. The OPLIN Executive Director shall biannually provide written reports to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate on any steps being taken by OPLIN and public libraries in the state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, InfOhio, and OhioLink shall, to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

TRANSFER TO OPLIN TECHNOLOGY FUND

Notwithstanding sections 5747.03 and 5747.47 of the Revised Code and any other provision of law to the contrary, in accordance with a schedule

established by the Director of Budget and Management, the Director of Budget and Management shall transfer up to \$5,000,000 in fiscal year 2004 from the Library and Local Government Support Fund (Fund 065) to the OPLIN Technology Fund (Fund 4S4).

SECTION 67. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group

043	970-321	Operating Expenses	\$	779,886	\$	794,387
		TOTAL LCF Liquor Control Fund Group	\$	779,886	\$	794,387
		TOTAL ALL BUDGET FUND GROUPS	\$	779,886	\$	794,387

COMPUTER EQUIPMENT

Of the foregoing appropriation item 970-321, Operating Expenses, \$27,700 in fiscal year 2004 and \$4,500 in fiscal year 2005 shall be used for computer equipment.

SECTION 68. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group

044	950-100	Personal Services	\$	25,114,200	\$	25,133,314
044	950-200	Maintenance	\$	20,100,168	\$	20,120,268
044	950-300	Equipment	\$	3,067,250	\$	3,113,259
044	950-402	Game and Advertising Contracts	\$	68,683,000	\$	68,683,000
044	950-500	Problem Gambling Subsidy	\$	335,000	\$	335,000
044	950-601	Prizes, Bonuses, and Commissions	\$	166,173,455	\$	166,173,455
871	950-602	Annuity Prizes	\$	162,228,451	\$	162,185,260
		TOTAL SLF State Lottery Fund Group	\$	445,701,524	\$	445,743,556
		TOTAL ALL BUDGET FUND GROUPS	\$	445,701,524	\$	445,743,556

OPERATING EXPENSES

The Controlling Board may, at the request of the State Lottery Commission, authorize additional appropriations for operating expenses of the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

PRIZES, BONUSES, AND COMMISSIONS

Any amounts, in addition to the amounts appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, that are determined by the Director of the State Lottery Commission to be necessary to fund prizes, bonuses, and commissions are hereby appropriated.

ANNUITY PRIZES

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund Group

(Fund 044) to the Deferred Prizes Trust Fund (Fund 871) in an amount sufficient to fund deferred prizes. The Treasurer of State, from time to time, shall credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any amounts, in addition to the amounts appropriated in appropriation item 950-602, Annuity Prizes, that are determined by the Director of the State Lottery Commission to be necessary to fund deferred prizes and interest earnings are hereby appropriated.

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND

The Ohio Lottery Commission shall transfer an amount greater than or equal to \$637,900,000 in fiscal year 2004 and \$637,900,000 in fiscal year 2005 to the Lottery Profits Education Fund. Transfers from the Commission to the Lottery Profits Education Fund shall represent the estimated net income from operations for the Commission in fiscal year 2004 or fiscal year 2005. Transfers by the Commission to the Lottery Profits Education Fund shall be administered in accordance with and pursuant to the Revised Code.

TRANSFERS OF UNCLAIMED PRIZE FUNDS

On July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer up to \$7,500,000 in cash from the Unclaimed Prize Fund (Fund 872) to the Lottery Profits Education Reserve Fund (Fund 018). The remaining unencumbered and unallotted balances as of July 31, 2003, in the Unclaimed Prize Fund (Fund 872) are hereby transferred to the State Lottery Fund Group (Fund 044).

SECTION 69. MED STATE MEDICAL BOARD

General Services Fund Group

5C6 883-609	State Medical Board	\$	7,098,956	\$	7,199,935
	Operating				
TOTAL GSF General Services					

Fund Group	\$	7,098,956	\$	7,199,935
TOTAL ALL BUDGET FUND GROUPS	\$	7,098,956	\$	7,199,935

SECTION 70. DMH DEPARTMENT OF MENTAL HEALTH

Division of General Administration Intragovernmental Service Fund Group

151 235-601	General Administration	\$	85,181,973	\$	85,181,973
TOTAL ISF Intragovernmental					
Service Fund Group	\$	85,181,973	\$	85,181,973	

Division of Mental Health--

Psychiatric Services to Correctional Facilities

General Revenue Fund

GRF 332-401	Forensic Services	\$	4,338,858	\$	4,338,858
TOTAL GRF	General Revenue Fund	\$	4,338,858	\$	4,338,858
TOTAL ALL BUDGET FUND GROUPS		\$	89,520,831	\$	89,520,831

FORENSIC SERVICES

The foregoing appropriation item 322-401, Forensic Services, shall be used to provide psychiatric services to courts of common pleas. The appropriation shall be allocated through community mental health boards to certified community agencies and shall be distributed according to the criteria delineated in rule 5122:4-1-01 of the Administrative Code. These community forensic funds may also be used to provide forensic training to community mental health boards and to forensic psychiatry residency programs in hospitals operated by the Department of Mental Health and to provide evaluations of patients of forensic status in facilities operated by the Department of Mental Health prior to conditional release to the community.

In addition, appropriation item 332-401, Forensic Services, may be used to support projects involving mental health, substance abuse, courts, and law enforcement to identify and develop appropriate alternative services to institutionalization for nonviolent mentally ill offenders, and to provide linkage to community services for severely mentally disabled offenders released from institutions operated by the Department of Rehabilitation and Correction. Funds may also be utilized to provide forensic monitoring and tracking in addition to community programs serving persons of forensic status on conditional release or probation.

**Division of Mental Health--
Administration and Statewide Programs**

General Revenue Fund

GRF 333-321	Central Administration	\$	22,808,798	\$	24,178,778
GRF 333-402	Resident Trainees	\$	1,364,919	\$	1,364,919
GRF 333-403	Pre-Admission Screening Expenses	\$	650,135	\$	650,135
GRF 333-415	Lease-Rental Payments	\$	25,935,650	\$	23,206,750
GRF 333-416	Research Program Evaluation	\$	1,001,551	\$	1,001,551
TOTAL GRF	General Revenue Fund	\$	51,761,053	\$	50,402,133

General Services Fund Group

149 333-609	Central Office Rotary - Operating	\$	1,087,454	\$	1,103,578
TOTAL	General Services Fund Group	\$	1,087,454	\$	1,103,578

Federal Special Revenue Fund Group

3A7 333-612	Social Services Block Grant	\$	25,000	\$	0
3A8 333-613	Federal Grant - Administration	\$	57,470	\$	57,984
3A9 333-614	Mental Health Block Grant	\$	827,363	\$	835,636
3B1 333-635	Community Medicaid Expansion	\$	4,126,430	\$	4,145,222
324 333-605	Medicaid/Medicare	\$	523,761	\$	514,923
TOTAL	Federal Special Revenue				

Am. Sub. H. B. No. 95

2003

Fund Group		\$	5,560,024	\$	5,553,765
State Special Revenue Fund Group					
4X5 333-607	Behavioral Health Medicaid Services	\$	2,913,327	\$	3,000,634
485 333-632	Mental Health Operating	\$	134,233	\$	134,233
5M2 333-602	PWLC Campus Improvement	\$	200,000	\$	200,000
TOTAL State Special Revenue Fund Group					
		\$	3,247,560	\$	3,334,867
TOTAL ALL BUDGET FUND GROUPS					
		\$	61,656,091	\$	60,394,343

RESIDENCY TRAINEESHIP PROGRAMS

The foregoing appropriation item 333-402, Resident Trainees, shall be used to fund training agreements entered into by the Department of Mental Health for the development of curricula and the provision of training programs to support public mental health services.

PRE-ADMISSION SCREENING EXPENSES

The foregoing appropriation item 333-403, Pre-Admission Screening Expenses, shall be used to pay for costs to ensure that uniform statewide methods for pre-admission screening are in place to perform assessments for persons in need of mental health services or for whom institutional placement in a hospital or in another inpatient facility is sought. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

LEASE-RENTAL PAYMENTS

The foregoing appropriation item 333-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Mental Health pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$49,142,400. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 70.01. DIVISION OF MENTAL HEALTH - HOSPITALS

General Revenue Fund

GRF 334-408	Community and Hospital Mental Health Services	\$	380,249,629	\$	390,506,082
GRF 334-506	Court Costs	\$	976,652	\$	976,652
TOTAL GRF General Revenue Fund					
		\$	381,226,281	\$	391,482,734

General Services Fund Group

149 334-609	Hospital Rotary - Operating Expenses	\$	22,908,053	\$	24,408,053

Am. Sub. H. B. No. 95

2004

150	334-620	Special Education	\$	120,930	\$	120,930
TOTAL GSF General Services						
		Fund Group	\$	23,028,983	\$	24,528,983
Federal Special Revenue Fund Group						
3B0	334-617	Elementary and Secondary Education Act	\$	248,644	\$	251,866
3B1	334-635	Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000
324	334-605	Medicaid/Medicare	\$	10,484,944	\$	10,916,925
TOTAL FED Federal Special Revenue						
		Fund Group	\$	12,733,588	\$	13,168,791
State Special Revenue Fund Group						
485	334-632	Mental Health Operating	\$	2,387,253	\$	2,476,297
5L2	334-619	Health Foundation/Greater Cincinnati	\$	26,000	\$	0
692	334-636	Community Mental Health Board Risk Fund	\$	100,000	\$	100,000
TOTAL SSR State Special Revenue						
		Fund Group	\$	2,513,253	\$	2,576,297
TOTAL ALL BUDGET FUND GROUPS						
			\$	419,502,105	\$	431,756,805

COMMUNITY MENTAL HEALTH BOARD RISK FUND

The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments pursuant to section 5119.62 of the Revised Code.

SECTION 70.02. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT SERVICES

General Revenue Fund

GRF	335-419	Community Medication Subsidy	\$	7,711,092	\$	7,959,798
GRF	335-505	Local MH Systems of Care	\$	89,687,868	\$	89,687,868
TOTAL GRF General Revenue Fund						
			\$	97,398,960	\$	97,647,666

General Services Fund Group

4P9	335-604	Community Mental Health Projects	\$	200,000	\$	200,000
TOTAL GSF General Services						
		Fund Group	\$	200,000	\$	200,000

Federal Special Revenue Fund Group

3A7	335-612	Social Services Block Grant	\$	9,314,108	\$	9,314,108
3A8	335-613	Federal Grant - Community Mental Health Board Subsidy	\$	1,717,040	\$	1,717,040
3A9	335-614	Mental Health Block Grant	\$	16,887,218	\$	17,056,090
3B1	335-635	Community Medicaid Expansion	\$	220,472,136	\$	237,766,721
TOTAL FED Federal Special Revenue Fund Group						
			\$	248,390,502	\$	265,853,959

State Special Revenue Fund Group

632	335-616	Community Capital Replacement	\$	250,000	\$	250,000
TOTAL SSR State Special Revenue Fund						
			\$	250,000	\$	250,000

Group			
TOTAL ALL BUDGET FUND GROUPS	\$	346,239,462	\$ 363,951,625
DEPARTMENT TOTAL			
GENERAL REVENUE FUND	\$	534,725,152	\$ 543,871,391
DEPARTMENT TOTAL			
GENERAL SERVICES FUND GROUP	\$	24,316,437	\$ 25,832,561
DEPARTMENT TOTAL			
FEDERAL SPECIAL REVENUE			
FUND GROUP	\$	266,684,114	\$ 284,576,515
DEPARTMENT TOTAL			
STATE SPECIAL REVENUE FUND GROUP	\$	6,010,813	\$ 6,161,164
DEPARTMENT TOTAL			
INTRAGOVERNMENTAL FUND GROUP	\$	85,181,973	\$ 85,181,973
TOTAL DEPARTMENT OF MENTAL	\$	916,918,489	\$ 945,623,604
HEALTH			

SECTION 70.03. COMMUNITY MEDICATION SUBSIDY

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs.

LOCAL MENTAL HEALTH SYSTEMS OF CARE

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted pursuant to section 340.03 of the Revised Code and as approved by the Department of Mental Health.

Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2004 and not less than \$34,818,917 in fiscal year 2005 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards.

Of the foregoing appropriation, \$100,000 in each fiscal year shall be used to fund family and consumer education and support.

BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

SECTION 71. DMR DEPARTMENT OF MENTAL RETARDATION

AND DEVELOPMENTAL DISABILITIES

SECTION 71.01. GENERAL ADMINISTRATION AND STATEWIDE SERVICES

General Revenue Fund

GRF 320-321	Central Administration	\$	9,174,390	\$	9,357,878
GRF 320-412	Protective Services	\$	1,911,471	\$	2,008,330
GRF 320-415	Lease-Rental Payments	\$	25,935,650	\$	23,206,750
TOTAL GRF General Revenue Fund		\$	37,021,511	\$	34,572,958

General Services Fund Group

4B5 320-640	Conference/Training	\$	400,000	\$	400,000
TOTAL GSF General Services Fund Group		\$	400,000	\$	400,000

Federal Special Revenue Fund Group

3A4 320-605	Administrative Support	\$	12,492,892	\$	12,492,892
3A5 320-613	DD Council Operating Expenses	\$	861,000	\$	861,000
325 320-634	Protective Services	\$	100,000	\$	100,000
TOTAL FED Federal Special Revenue Fund Group		\$	13,453,892	\$	13,453,892

State Special Revenue Fund Group

5S2 590-622	Medicaid Administration & Oversight	\$	2,969,552	\$	2,969,552

TOTAL SSR State Special Revenue Fund Group		\$	2,969,552	\$	2,969,552

TOTAL ALL GENERAL

ADMINISTRATION

AND STATEWIDE SERVICES

BUDGET FUND GROUPS		\$	53,844,955	\$	51,396,402

LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Mental Retardation and Developmental Disabilities pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$49,142,400. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 71.02. COMMUNITY SERVICES

General Revenue Fund

GRF 322-405	State Use Program	\$	268,792	\$	273,510
GRF 322-413	Residential and Support Services	\$	8,439,337	\$	8,450,787
GRF 322-416	Waiver State Match	\$	95,695,198	\$	100,019,747
GRF 322-417	Supported Living	\$	43,179,715	\$	43,179,715
GRF 322-451	Family Support Services	\$	6,975,870	\$	6,975,870
GRF 322-452	Service and Support Administration	\$	8,849,724	\$	8,849,724
GRF 322-501	County Boards Subsidies	\$	31,795,691	\$	31,795,691
GRF 322-503	Tax Equity	\$	14,000,000	\$	15,000,000
TOTAL GRF General Revenue Fund		\$	209,204,327	\$	214,545,044

General Services Fund Group

4J6 322-645	Intersystem Services for Children	\$	3,300,000	\$	3,300,000
4U4 322-606	Community MR and DD Trust	\$	300,000	\$	300,000
4V1 322-611	Program Support	\$	610,000	\$	625,000
488 322-603	Residential Services Refund	\$	1,000,000	\$	1,000,000
TOTAL GSF General Services Fund Group		\$	5,210,000	\$	5,225,000

Federal Special Revenue Fund Group

3A4 322-605	Community Program Support	\$	1,000,000	\$	1,000,000
3A4 322-610	Community Residential Support	\$	500,000	\$	500,000
3A5 322-613	DD Council Grants	\$	3,130,000	\$	3,130,000
3G6 322-639	Medicaid Waiver	\$	344,068,714	\$	373,772,814
3M7 322-650	CAFS Medicaid	\$	254,739,737	\$	267,668,087
325 322-608	Federal Grants - Operating Expenses	\$	2,023,587	\$	1,833,815
325 322-612	Social Service Block Grant	\$	10,319,346	\$	10,330,830
325 322-617	Education Grants - Operating	\$	75,500	\$	75,500
TOTAL FED Federal Special Revenue Fund Group		\$	615,856,884	\$	658,311,046

State Special Revenue Fund Group

4K8 322-604	Waiver - Match	\$	12,000,000	\$	12,000,000
5H0 322-619	Medicaid Repayment	\$	25,000	\$	25,000
TOTAL SSR State Special Revenue Fund Group		\$	12,025,000	\$	12,025,000
TOTAL ALL COMMUNITY SERVICES BUDGET FUND GROUPS		\$	842,296,211	\$	890,106,090

RESIDENTIAL AND SUPPORT SERVICES

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-413, Residential and Support Services, for the following:

(A) Sermak Class Services used to implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. c-2-80-220, United States District Court for the Southern District of Ohio,

Eastern Division;

(B) Medicaid-reimbursed programs other than home and community-based waiver services, in an amount not to exceed \$1,000,000 in each fiscal year, that enable persons with mental retardation and developmental disabilities to live in the community.

WAIVER STATE MATCH

The purposes for which the foregoing appropriation item 322-416, Waiver State Match, shall be used include the following:

(A) Home and community-based waiver services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) Services contracted by county boards of mental retardation and developmental disabilities.

(C) To pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental Disabilities may designate a portion of appropriation item 322-416, Waiver State Match, to county boards of mental retardation and developmental disabilities that have greater need for various residential and support services due to a low percentage of residential and support services development in comparison to the number of individuals with mental retardation or developmental disabilities in the county.

Of the foregoing appropriation item 322-416, Waiver State Match, \$9,850,000 in each year of the biennium shall be distributed by the Department to county boards of mental retardation and developmental disabilities to support existing residential facilities waiver and individual options waiver related to Medicaid activities provided for in the component of a county board's plan developed under division (A)(2) of section 5126.054 of the Revised Code and approved under section 5123.046 of the Revised Code. Up to \$3,000,000 of these funds in each fiscal year may be used to implement day-to-day program management services under division (A)(2) of section 5126.054 of the Revised Code. Up to \$4,200,000 in each fiscal year may be used to implement the program and health and welfare requirements of division (A)(2) of section 5126.054 of the Revised Code.

In fiscal years 2004 and 2005 not less than \$2,650,000 of these funds

shall be used to recruit and retain, under division (A)(2) of section 5126.054 of the Revised Code, the direct care staff necessary to implement the services included in an individualized service plan in a manner that ensures the health and welfare of the individuals being served.

The methodology utilized by the department to determine each residential facilities waiver and individual options provider's allocation of such funds in fiscal year 2003 shall be used for allocation purposes to such providers in fiscal years 2004 and 2005, respectively.

SUPPORTED LIVING

The purposes for which the foregoing appropriation item 322-417, Supported Living, shall be used include supported living services contracted by county boards of mental retardation and developmental disabilities in accordance with sections 5126.40 to 5126.47 of the Revised Code and to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities does not initiate or support the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may develop residential and support service programs funded by appropriation item 322-413, Residential and Support Services, appropriation item 322-416, Waiver State Match, or appropriation item 322-417, Supported Living, that enable persons with mental retardation and developmental disabilities to live in the community. Notwithstanding Chapter 5121. and section 5123.122 of the Revised Code, the department may waive the support collection requirements of those statutes for persons in community programs developed by the department under this section. The department shall adopt rules under Chapter 119. of the Revised Code or may use existing rules for the implementation of these programs.

FAMILY SUPPORT SERVICES

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 5126.11 of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may implement programs funded by appropriation item 322-451, Family Support Services, to provide assistance to persons with mental retardation or developmental disabilities and their families who are living in the community. The department shall adopt rules

to implement these programs. The department may also use the foregoing appropriation item 322-451, Family Support Services, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

SERVICE AND SUPPORT ADMINISTRATION

The foregoing appropriation item 322-452, Service and Support Administration, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing service and support administration services and to assist in bringing state funding for all department-approved service and support administrators within county boards of mental retardation and developmental disabilities to the level authorized in division (C) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item 322-452, Service and Support Administration, to be used to meet the statutory funding level in division (C) of section 5126.15 of the Revised Code.

Notwithstanding division (C) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Service and Support Administration, no county may receive less than its allocation in fiscal year 1995. Wherever case management services are referred to in any law, contract, or other document, the reference shall be deemed to refer to service and support administration. No action or proceeding pending on the effective date of this section is affected by the renaming of case management services as service and support administration.

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The department may also use the foregoing appropriation item 322-452, Service and Support Administration, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded

certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

STATE SUBSIDIES TO MR/DD BOARDS

The foregoing appropriation item 322-501, County Boards Subsidies, shall be distributed to county boards of mental retardation and developmental disabilities pursuant to section 5126.12 of the Revised Code to the limit of the lesser of the amount required by that section or the appropriation in appropriation item 322-501 prorated to all county boards of mental retardation and developmental disabilities.

The department may also use the foregoing appropriation item 322-501, County Boards Subsidies, to pay the nonfederal share of the cost of one or more new intermediate care facility for the mentally retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the director of mental retardation and developmental disabilities is required by this act to transfer to the director of job and family services funds to pay such nonfederal share.

TAX EQUITY

The foregoing appropriation item 322-503, Tax Equity, shall be used to fund the tax equalization program created under section 5126.18 of the Revised Code for county boards of mental retardation and developmental disabilities.

INTERSYSTEM SERVICES FOR CHILDREN

The foregoing appropriation item 322-645, Intersystem Services for Children, shall be used to support direct grants to county family and children first councils created under section 121.37 of the Revised Code. The funds shall be used as partial support payment and reimbursement for locally coordinated treatment plans for multi-needs children that come to the attention of the Family and Children First Cabinet Council pursuant to section 121.37 of the Revised Code. The Department of Mental Retardation and Developmental Disabilities may use up to five per cent of this amount for administrative expenses associated with the distribution of funds to the county councils.

WAIVER - MATCH

The foregoing appropriation item 322-604, Waiver-Match (Fund 4K8), shall be used as state matching funds for the home and community-based waivers.

SECTION 71.03. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A MODEL BILLING FOR SERVICES RENDERED

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a methodology for recovery of all costs associated with the provisions of these services.

SECTION 71.04. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

Beginning July 1, 2003, the Department of Mental Retardation and Developmental Disabilities shall pay the Department of Job and Family Services quarterly, through intrastate transfer voucher, the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services.

SECTION 71.05. RESIDENTIAL FACILITIES

General Revenue Fund

GRF 323-321	Residential Facilities Operations	\$	105,701,254	\$	107,252,799

TOTAL GRF General Revenue Fund		\$	105,701,254	\$	107,252,799

General Services Fund Group

152 323-609	Residential Facilities Support	\$	912,177	\$	912,177

TOTAL GSF General Services Fund Group		\$	912,177	\$	912,177

Federal Special Revenue Fund Group

3A4 323-605	Residential Facilities Reimbursement	\$	128,736,729	\$	128,831,708

325 323-608	Federal Grants - Subsidies	\$	571,381	\$	582,809

325 323-617	Education Grants - Residential Facilities	\$	425,000	\$	425,000

TOTAL FED Federal Special Revenue Fund Group		\$	129,733,110	\$	129,839,517

State Special Revenue Fund Group

489 323-632	Operating Expense	\$	12,125,628	\$	12,125,628

TOTAL SSR State Special Revenue Fund Group		\$	12,125,628	\$	12,125,628

TOTAL ALL RESIDENTIAL FACILITIES BUDGET FUND GROUPS		\$	248,472,169	\$	250,130,121

Am. Sub. H. B. No. 95

2013

DEPARTMENT TOTAL			
GENERAL REVENUE FUND	\$	351,927,092	\$ 356,370,801
DEPARTMENT TOTAL			
GENERAL SERVICES FUND GROUP	\$	6,522,177	\$ 6,537,177
DEPARTMENT TOTAL			
FEDERAL SPECIAL REVENUE FUND GROUP	\$	759,043,886	\$ 801,604,455
DEPARTMENT TOTAL			
STATE SPECIAL REVENUE FUND GROUP	\$	27,120,180	\$ 27,120,180
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES	\$	1,144,613,335	\$ 1,191,632,613

(A) The Executive Branch Committee on Medicaid Redesign and Expansion of MRDD Services, as established by Am. Sub. H.B. 94 of the 124th General Assembly, shall continue and consist of all of the following individuals:

- (1) One representative of the Governor appointed by the Governor;
- (2) Two representatives of the Department of Mental Retardation and Developmental Disabilities appointed by the Director of Mental Retardation and Developmental Disabilities;
- (3) Two representatives of the Department of Job and Family Services appointed by the Director of Job and Family Services;
- (4) One representative of the Office of Budget and Management appointed by the Director of Budget and Management;
- (5) One representative of The Arc of Ohio appointed by the organization's board of trustees;
- (6) One representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities appointed by the association's board of trustees;
- (7) One representative of the Ohio Superintendents of County Boards of Mental Retardation and Developmental Disabilities appointed by the organization's board of trustees;
- (8) One representative of the Ohio Provider Resource Association appointed by the association's board of trustees;
- (9) One representative of the Ohio Health Care Association appointed by the association's board of trustees;
- (10) One representative of individuals with mental retardation or other developmental disability appointed by the Director of Mental Retardation and Developmental Disabilities.

(B) The Governor shall appoint the chairperson of the committee. Members of the committee shall serve without compensation or reimbursement, except to the extent that serving on the committee is considered a part of their regular employment duties.

(C) The committee shall meet at times determined by the chairperson to do all of the following:

(1) Review the effect that the provisions of this act regarding Medicaid funding for services to individuals with mental retardation or other developmental disability have on the funding and provision of services to such individuals;

(2) Identify issues related to, and barriers to, the effective implementation of those provisions of this act with the goal of meeting the needs of individuals with mental retardation or other developmental disability;

(3) Establish effective means for resolving the issues and barriers, including advocating changes to state law, rules, or both.

(D) The committee shall submit a final report to the Governor and Directors of Mental Retardation and Developmental Disabilities and Job and Family Services and shall cease to exist on submission of the final report unless the Governor issues an executive order providing for the committee to continue.

SECTION 71.06. (A) As used in this section:

(1) "Family support services," "home and community-based services," "service and support administration," and "supported living" have the same meaning as in section 5126.01 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If one or more new beds obtain certification as an intermediate care facility for the mentally retarded bed on or after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall transfer funds to the Department of Job and Family Services to pay the nonfederal share of the cost under the Medicaid Program for those beds. The Director shall use only the following funds for the transfer:

(1) If the beds are located in a county served by a county board of mental retardation and developmental disabilities that does not initiate or support the beds' certification, funds appropriated to the Department of Mental Retardation and Developmental Disabilities for home and community-based services and supported living for which the Director is authorized to make allocations to county boards;

(2) If the beds are located in a county served by a county board that initiates or supports the beds' certification, funds appropriated to the Department for family support services, service and support administration, and other services for which the Director is authorized to make allocations

to counties.

(C) The funds that the Director transfers under division (B)(2) of this section shall be funds that the Director has allocated to the county board serving the county in which the beds are located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the cost under the Medicaid Program for those beds. If the allocation is insufficient, the Director shall use as much of such funds allocated to other counties as is needed to make up the difference.

SECTION 72. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149-321	Operating Expenses	\$	539,318	\$	539,318
GRF 149-501	Minority Health Grants	\$	751,478	\$	751,478
GRF 149-502	Lupus Program	\$	141,556	\$	141,556
TOTAL GRF General Revenue Fund		\$	1,432,352	\$	1,432,352

Federal Special Revenue Fund Group

3J9 149-602	Federal Grants	\$	150,000	\$	150,000
TOTAL FED Federal Special Revenue Fund Group		\$	150,000	\$	150,000

State Special Revenue Fund Group

4C2 149-601	Minority Health Conference	\$	150,000	\$	150,000
TOTAL SSR State Special Revenue Fund Group		\$	150,000	\$	150,000
TOTAL ALL BUDGET FUND GROUPS		\$	1,732,352	\$	1,732,352

LUPUS PROGRAM

The foregoing appropriation item 149-502, Lupus Program, shall be used to provide grants for programs in patient, public, and professional education on the subject of systemic lupus erythematosus; to encourage and develop local centers on lupus information gathering and screening; and to provide outreach to minority women.

SECTION 73. CRB MOTOR VEHICLE COLLISION REPAIR REGISTRATION BOARD

General Service Fund Group

5H9 865-609	Operating Expenses	\$	285,497	\$	314,422
TOTAL GSF General Services Fund Group		\$	285,497	\$	314,422
TOTAL ALL BUDGET FUND GROUPS		\$	285,497	\$	314,422

SECTION 74. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 725-404	Fountain Square Rental Payments - OBA	\$	1,093,300	\$	1,094,800

Am. Sub. H. B. No. 95

2016

GRF 725-407	Conservation Reserve Enhancement Program	\$	1,218,750	\$	1,218,750
GRF 725-412	Reclamation Commission	\$	57,934	\$	57,934
GRF 725-413	OPFC Lease Rental Payments	\$	15,066,500	\$	17,709,500
GRF 725-423	Stream and Ground Water Gauging	\$	331,819	\$	331,819
GRF 725-425	Wildlife License Reimbursement	\$	816,319	\$	816,319
GRF 725-456	Canal Lands	\$	332,859	\$	332,859
GRF 725-502	Soil and Water Districts	\$	11,182,024	\$	11,475,507
GRF 725-903	Natural Resources General Obligation Debt Service	\$	23,808,300	\$	26,914,300
GRF 727-321	Division of Forestry	\$	9,068,735	\$	9,068,735
GRF 728-321	Division of Geological Survey	\$	1,731,456	\$	1,731,456
GRF 729-321	Office of Information Technology	\$	440,895	\$	440,895
GRF 730-321	Division of Parks and Recreation	\$	34,232,205	\$	37,061,493
GRF 731-321	Office of Coastal Management	\$	248,679	\$	259,707
GRF 733-321	Division of Water	\$	3,355,830	\$	3,237,619
GRF 736-321	Division of Engineering	\$	3,410,852	\$	3,436,918
GRF 737-321	Division of Soil and Water	\$	4,215,288	\$	4,234,788
GRF 738-321	Division of Real Estate and Land Management	\$	2,322,031	\$	2,331,781
GRF 741-321	Division of Natural Areas and Preserves	\$	3,104,405	\$	3,104,405
GRF 744-321	Division of Mineral Resources Management	\$	3,439,744	\$	3,495,967
TOTAL GRF General Revenue Fund		\$	119,477,925	\$	128,355,552
General Services Fund Group					
155 725-601	Departmental Projects	\$	2,645,479	\$	2,831,337
157 725-651	Central Support Indirect	\$	8,272,102	\$	8,423,094
161 725-635	Parks Facilities Maintenance	\$	2,063,124	\$	2,576,240
204 725-687	Information Services	\$	3,384,275	\$	3,476,627
206 725-689	REALM Support Services	\$	475,000	\$	475,000
207 725-690	Real Estate Services	\$	54,000	\$	54,000
223 725-665	Law Enforcement Administration	\$	969,825	\$	976,225
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000
4S9 725-622	NatureWorks Personnel	\$	908,516	\$	983,103
4X8 725-662	Water Resources Council	\$	282,524	\$	282,524
430 725-671	Canal Lands	\$	1,119,834	\$	1,059,056
508 725-684	Natural Resources Publications	\$	209,364	\$	215,626
510 725-631	Maintenance - state-owned residences	\$	255,905	\$	260,849
516 725-620	Water Management	\$	3,663,849	\$	2,342,814
635 725-664	Fountain Square Facilities Management	\$	3,104,199	\$	3,104,199
697 725-670	Submerged Lands	\$	507,099	\$	542,011
TOTAL GSF General Services Fund Group		\$	27,965,095	\$	27,652,705
Federal Special Revenue Fund Group					

Am. Sub. H. B. No. 95

2017

3B3	725-640	Federal Forest Pass-Thru	\$	140,000	\$	150,000
3B4	725-641	Federal Flood Pass-Thru	\$	280,000	\$	285,000
3B5	725-645	Federal Abandoned Mine Lands	\$	11,922,845	\$	11,843,866
3B6	725-653	Federal Land and Water Conservation Grants	\$	4,900,000	\$	5,000,000
3B7	725-654	Reclamation - Regulatory	\$	2,179,870	\$	2,168,413
3P0	725-630	Natural Areas and Preserves - Federal	\$	718,876	\$	552,480
3P1	725-632	Geological Survey - Federal	\$	470,780	\$	479,653
3P2	725-642	Oil and Gas-Federal	\$	224,537	\$	232,964
3P3	725-650	Real Estate and Land Management - Federal	\$	2,357,000	\$	2,357,000
3P4	725-660	Water - Federal	\$	300,000	\$	242,000
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	792,028	\$	837,223
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871
328	725-603	Forestry Federal	\$	1,530,561	\$	1,484,531
332	725-669	Federal Mine Safety Grant	\$	247,364	\$	258,103
TOTAL FED Federal Special Revenue Fund Group			\$	27,642,732	\$	27,470,104
State Special Revenue Fund Group						
4J2	725-628	Injection Well Review	\$	98,468	\$	81,188
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000
4U6	725-668	Scenic Rivers Protection	\$	561,000	\$	617,100
5B3	725-674	Mining Regulation	\$	35,000	\$	35,000
5K1	725-626	Urban Forestry Grant	\$	400,000	\$	400,000
5P2	725-634	Wildlife Boater Angler Administration	\$	1,500,000	\$	1,500,000
509	725-602	State Forest	\$	982,970	\$	1,127,117
511	725-646	Ohio Geologic Mapping	\$	983,274	\$	985,940
512	725-605	State Parks Operations	\$	29,915,146	\$	29,915,146
514	725-606	Lake Erie Shoreline	\$	1,027,093	\$	936,254
518	725-643	Oil and Gas Permit Fees	\$	2,205,651	\$	2,399,580
518	725-677	Oil and Gas Well Plugging	\$	1,000,000	\$	1,000,000
521	725-627	Off-Road Vehicle Trails	\$	118,490	\$	123,490
522	725-656	Natural Areas Checkoff Funds	\$	2,046,737	\$	1,550,670
526	725-610	Strip Mining Administration Fees	\$	1,449,459	\$	1,449,459
527	725-637	Surface Mining Administration	\$	2,793,938	\$	2,693,938
529	725-639	Unreclaimed Land Fund	\$	1,841,589	\$	1,971,037
531	725-648	Reclamation Forfeiture	\$	2,393,762	\$	2,374,087
532	725-644	Litter Control and Recycling	\$	12,544,686	\$	12,544,686
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000
615	725-661	Dam Safety	\$	286,045	\$	408,223
TOTAL SSR State Special Revenue Fund Group			\$	63,283,308	\$	63,212,915
Clean Ohio Fund Group						
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000
TOTAL CLR Clean Ohio Fund Group			\$	155,000	\$	155,000
Wildlife Fund Group						
015	740-401	Division of Wildlife	\$	46,427,945	\$	46,814,691

Am. Sub. H. B. No. 95

2018

815	725-636	Conservation Cooperative Management Projects	\$	120,449	\$	120,449
816	725-649	Wetlands Habitat	\$	966,885	\$	966,885
817	725-655	Wildlife Conservation Checkoff Fund	\$	5,000,000	\$	5,000,000
818	725-629	Cooperative Fisheries Research	\$	988,582	\$	988,582
819	725-685	Ohio River Management	\$	128,584	\$	128,584
TOTAL WLF Wildlife Fund Group			\$	53,632,445	\$	54,019,191
Waterways Safety Fund Group						
086	725-414	Waterways Improvement	\$	3,813,051	\$	4,140,186
086	725-418	Buoy Placement	\$	42,182	\$	42,182
086	725-501	Waterway Safety Grants	\$	137,867	\$	137,867
086	725-506	Watercraft Marine Patrol	\$	576,153	\$	576,153
086	725-513	Watercraft Educational Grants	\$	366,643	\$	366,643
086	739-401	Division of Watercraft	\$	19,420,712	\$	18,718,847
TOTAL WSF Waterways Safety Fund Group			\$	24,356,608	\$	23,981,878
Holding Account Redistribution Fund Group						
R17	725-659	Performance Cash Bond Refunds	\$	226,500	\$	226,500
R43	725-624	Forestry	\$	800,000	\$	800,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	1,026,500	\$	1,026,500
Accrued Leave Liability Fund Group						
4M8	725-675	FOP Contract	\$	20,844	\$	20,844
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,844	\$	20,844
TOTAL ALL BUDGET FUND GROUPS			\$	317,560,457	\$	325,894,689

SECTION 74.01. FOUNTAIN SQUARE

The foregoing appropriation item 725-404, Fountain Square Rental Payments - OBA, shall be used by the Department of Natural Resources to meet all payments required to be made to the Ohio Building Authority during the period from July 1, 2003, to June 30, 2005, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of \$2,188,100.

The Director of Natural Resources, using intrastate transfer vouchers, shall make payments to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for the other funds' shares of the lease rental payments to the Ohio Building Authority. The transfers from the non-General Revenue funds shall be made within 10 days of the payment to the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of the Revised Code.

The foregoing appropriation item 725-664, Fountain Square Facilities Management (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited into the Fountain Square Facilities Management Fund (Fund 635).

LEASE RENTAL PAYMENTS

The foregoing appropriation item 725-413, OPFC Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Department of Natural Resources pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of \$32,776,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code.

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 725-903, Natural Resources General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.05 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 74.02. WILDLIFE LICENSE REIMBURSEMENT

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

CANAL LANDS

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

SOIL AND WATER DISTRICTS

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed \$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$120,000 shall be earmarked in fiscal year 2004 for the Franklin County Soil and Water District.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$175,000 shall be earmarked in fiscal year 2004 for the Indian Lake Watershed.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$50,000 shall be earmarked for the Rush Creek Watershed in each fiscal year.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$28,000 shall be earmarked for the Conservation Action Program in each fiscal year.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$150,000 each fiscal year shall be earmarked for the Muskingum Conservancy District.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$120,000 in fiscal year 2004 shall be earmarked for the relocation of Route 30.

FUND CONSOLIDATION

On July 15, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance as certified by the Director of Natural Resources from the Real Estate and Land Management-Federal Fund (Fund 3P3) to the REALM-Federal Fund (Fund

3Z5). The Director shall cancel any remaining outstanding encumbrances against appropriation item 725-650, Real Estate and Land Management-Federal, that are associated with the REALM federal programs and reestablish them against appropriation item 725-657, REALM-Federal. The amounts of any encumbrances canceled and reestablished are hereby appropriated.

LAW ENFORCEMENT ADMINISTRATION

On or after July 1, 2003, but not later than July 15, 2003, the Director of Budget and Management shall transfer \$969,825 from the Central Support Indirect Fund (Fund 157) to the Law Enforcement Administration Fund (Fund 223). On or after July 1, 2004, but not later than July 15, 2004, the Director of Budget and Management shall transfer \$976,225 from the Central Support Indirect Fund (Fund 157) to the Law Enforcement Administration Fund (Fund 223).

OIL AND GAS WELL PLUGGING

The foregoing appropriation item 725-677, Oil and Gas Well Plugging, shall be used exclusively for the purposes of plugging wells and to properly restore the land surface of idle and orphan oil and gas wells pursuant to section 1509.071 of the Revised Code. No funds from the appropriation item shall be used for salaries, maintenance, equipment, or other administrative purposes, except for those costs directly attributed to the plugging of an idle or orphan well. Appropriation authority from this appropriation item shall not be transferred to any other fund or line item.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 725-405, Clean Ohio Operating, shall be used by the Department of Natural Resources in administering section 1519.05 of the Revised Code.

DIVISION OF SOIL AND WATER

Of the foregoing appropriation item 737-321, Division of Soil and Water, \$220,000 in each fiscal year shall be earmarked for the Water Quality Laboratory located at Heidelberg College.

WATERCRAFT MARINE PATROL

Of the foregoing appropriation item 739-401, Division of Watercraft, not more than \$200,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural

Resources and the eligible marine patrol.

ELIMINATION OF CIVILIAN CONSERVATION CORPS

Upon the closure of the Division of Civilian Conservation, the Director of Natural Resources, not later than June 30, 2004, shall distribute, allocate, salvage, or transfer all assets, equipment, supplies, and cash balances of the Division of Civilian Conservation to other operating divisions of the Department of Natural Resources as determined by the director. The director shall maintain a record of such disposition of all assets.

The director shall maintain balances within the Civilian Conservation Corps Fund to pay all outstanding obligations, including unemployment and other costs associated with the orderly closure of the Division of Civilian Conservation. All amounts necessary for the orderly closure are hereby appropriated.

PROHIBITION AGAINST ENTRANCE FEES FOR STATE PARKS AND NATURE PRESERVES

During the biennium that includes fiscal years 2004 and 2005, the Department of Natural Resources shall not charge a fee for the privilege of entering a state park or a nature preserve, as "nature preserve" is defined in section 1517.01 of the Revised Code.

SECTION 75. NUR STATE BOARD OF NURSING

General Services Fund Group

4K9 884-609	Operating Expenses	\$	5,232,776	\$	5,257,576
5P8 884-601	Nursing Special Issues	\$	5,000	\$	5,000
TOTAL GSF General Services					
Fund Group		\$	5,237,776	\$	5,262,576
TOTAL ALL BUDGET FUND GROUPS					
		\$	5,237,776	\$	5,262,576

NURSING SPECIAL ISSUES

The foregoing appropriation item 884-601, Nursing Special Issues (Fund 5P8), shall be used to pay the costs the Board of Nursing incurs in implementing section 4723.062 of the Revised Code.

SECTION 76. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

General Services Fund Group

4K9 890-609	Operating Expenses	\$	771,391	\$	801,480
TOTAL GSF General Services Fund Group					
		\$	771,391	\$	801,480
TOTAL ALL BUDGET FUND GROUPS					
		\$	771,391	\$	801,480

SECTION 77. OLA OHIOANA LIBRARY ASSOCIATION

Am. Sub. H. B. No. 95

2023

General Revenue Fund

GRF 355-501 Library Subsidy	\$	215,036	\$	215,036
TOTAL GRF General Revenue Fund	\$	215,036	\$	215,036
TOTAL ALL BUDGET FUND GROUPS	\$	215,036	\$	215,036

SECTION 78. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K9 894-609 Operating Expenses	\$	307,096	\$	312,656
TOTAL GSF General Services				
Fund Group	\$	307,096	\$	312,656
TOTAL ALL BUDGET FUND GROUPS	\$	307,096	\$	312,656

SECTION 79. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K9 885-609 Operating Expenses	\$	306,140	\$	324,391
TOTAL GSF General Services				
Fund Group	\$	306,140	\$	324,391
TOTAL ALL BUDGET FUND GROUPS	\$	306,140	\$	324,391

**SECTION 80. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS,
AND PEDORTHICS**

General Services Fund Group

4K9973-609 Operating Expenses	\$	100,206	\$	102,395
TOTAL GSF General Services				
Fund Group	\$	100,206	\$	102,395
TOTAL ALL BUDGET FUND GROUPS	\$	100,206	\$	102,395

SECTION 81. PBR STATE PERSONNEL BOARD OF REVIEW

General Revenue Fund

GRF 124-321 Operating	\$	1,029,430	\$	1,077,170
TOTAL GRF General Revenue Fund	\$	1,029,430	\$	1,077,170

General Services Fund Group

636 124-601 Transcript and Other	\$	25,000	\$	25,000
TOTAL GSF General Services				
Fund Group	\$	25,000	\$	25,000
TOTAL ALL BUDGET FUND GROUPS	\$	1,054,430	\$	1,102,170

TRANSCRIPT AND OTHER

The foregoing appropriation item 124-601, Transcript and Other, may be used to defray the costs of producing an administrative record.

SECTION 82. PRX STATE BOARD OF PHARMACY**General Services Fund Group**

4A5 887-605	Drug Law Enforcement	\$	72,900	\$	75,550
4K9 887-609	Operating Expenses	\$	4,733,987	\$	4,914,594
TOTAL GSF General Services					
Fund Group		\$	4,806,887	\$	4,990,144
TOTAL ALL BUDGET FUND GROUPS					
		\$	4,806,887	\$	4,990,144

SECTION 83. PSY STATE BOARD OF PSYCHOLOGY**General Services Fund Group**

4K9 882-609	Operating Expenses	\$	564,544	\$	561,525
TOTAL GSF General Services					
Fund Group		\$	564,544	\$	561,525
TOTAL ALL BUDGET FUND GROUPS					
		\$	564,544	\$	561,525

SECTION 84. PUB OHIO PUBLIC DEFENDER COMMISSION**General Revenue Fund**

GRF 019-321	Public Defender Administration	\$	1,430,057	\$	1,351,494
GRF 019-401	State Legal Defense Services	\$	5,974,780	\$	5,943,572
GRF 019-403	Multi-County: State Share	\$	917,668	\$	930,894
GRF 019-404	Trumbull County - State Share	\$	299,546	\$	308,450
GRF 019-405	Training Account	\$	33,323	\$	33,323
GRF 019-501	County Reimbursement - Non-Capital Cases	\$	30,567,240	\$	32,630,070
GRF 019-503	County Reimbursement - Capital Cases	\$	693,000	\$	726,000
TOTAL GRF General Revenue Fund					
		\$	39,915,614	\$	41,923,803

General Services Fund Group

101 019-602	Inmate Legal Assistance	\$	52,698	\$	53,086
406 019-603	Training and Publications	\$	16,000	\$	16,000
407 019-604	County Representation	\$	255,789	\$	259,139
408 019-605	Client Payments	\$	285,533	\$	285,533
TOTAL GSF General Services					
Fund Group		\$	610,020	\$	613,758

Federal Special Revenue Fund Group

3S8 019-608	Federal Representation	\$	351,428	\$	355,950
TOTAL FED Federal Special Revenue					
Fund Group		\$	351,428	\$	355,950

State Special Revenue Fund Group

4C7 019-601	Multi-County: County Share	\$	1,923,780	\$	1,991,506
4X7 019-610	Trumbull County - County Share	\$	624,841	\$	658,764
574 019-606	Legal Services Corporation	\$	14,305,700	\$	14,305,800
TOTAL SSR State Special Revenue					
Fund Group		\$	16,854,321	\$	16,956,070

TOTAL ALL BUDGET FUND GROUPS \$ 57,731,383 \$ 59,849,581

JUVENILE REPRESENTATION

Of the foregoing appropriation item 019-401, State Legal Defense Services, at least \$250,000 in each fiscal year shall be used to provide legal services and assistance to juveniles.

INDIGENT DEFENSE OFFICE

The foregoing appropriation items 019-404, Trumbull County - State Share, and 019-610, Trumbull County - County Share, shall be used to support an indigent defense office for Trumbull County.

MULTI-COUNTY OFFICE

The foregoing appropriation items 019-403, Multi-County: State Share, and 019-601, Multi-County: County Share, shall be used to support the Office of the Ohio Public Defender's Multi-County Branch Office Program.

TRAINING ACCOUNT

The foregoing appropriation item 019-405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for private appointed counsel who represent at least one indigent defendant at no cost and for state and county public defenders and attorneys who contract with the Ohio Public Defender to provide indigent defense services.

FEDERAL REPRESENTATION

The foregoing appropriation item 019-608, Federal Representation, shall be used to receive reimbursements from the federal courts when the Ohio Public Defender provides representation in federal court cases and to support representation in such cases.

APPOINTED COUNSEL REIMBURSEMENT RATE FREEZE

In establishing maximum amounts that the state will reimburse counties for legal services pursuant to divisions (B) (8) and (9) of section 120.04 of the Revised Code for the period from July 1, 2003, through June 30, 2005, the state public defender shall not establish maximum amounts that exceed the maximum amounts in effect on March 1, 2003.

SECTION 85. DHS DEPARTMENT OF PUBLIC SAFETY

General Revenue Fund

GRF 763-403	Operating Expenses - EMA	\$	4,058,188	\$	4,058,188
GRF 763-507	Individual and Households	\$	48,750	\$	48,750
	Grants				
GRF 769-321	Food Stamp Trafficking	\$	800,000	\$	800,000
	Enforcement Operations				
TOTAL GRF General Revenue Fund		\$	4,906,938	\$	4,906,938
TOTAL ALL BUDGET FUND GROUPS		\$	4,906,938	\$	4,906,938

OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT

Of the foregoing appropriation item 763-403, Operating Expenses - EMA, \$200,000 in each fiscal year shall be used to fund the Ohio Task Force One - Urban Search and Rescue Unit and other urban search and rescue programs around the state to create a stronger search and rescue capability statewide.

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH

The foregoing appropriation item 763-507, Individual and Households Grants, shall be used to fund the state share of costs to provide grants to individuals and households in cases of disaster.

SECTION 86. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

5F6	870-622	Utility and Railroad Regulation	\$	30,622,222	\$	30,622,222
5F6	870-624	NARUC/NRRI Subsidy	\$	167,233	\$	167,233
5F6	870-625	Motor Transportation Regulation	\$	5,361,239	\$	5,361,239
558	870-602	Salvage and Exchange	\$	16,477	\$	4,000
TOTAL GSF General Services Fund Group			\$	36,167,171	\$	36,154,694

Federal Special Revenue Fund Group

3V3	870-604	Commercial Vehicle Information Systems/Networks	\$	870,000	\$	300,000
333	870-601	Gas Pipeline Safety	\$	597,957	\$	597,957
350	870-608	Motor Carrier Safety	\$	7,027,712	\$	7,027,712
TOTAL FED Federal Special Revenue Fund Group			\$	8,495,669	\$	7,925,669

State Special Revenue Fund Group

4A3	870-614	Grade Crossing Protection Devices-State	\$	1,349,757	\$	1,349,757
4L8	870-617	Pipeline Safety-State	\$	187,621	\$	187,621
4S6	870-618	Hazardous Material Registration	\$	899,325	\$	614,325
4S6	870-621	Hazardous Materials Base State Registration	\$	373,346	\$	373,346
4U8	870-620	Civil Forfeitures	\$	719,986	\$	434,986
559	870-605	Public Utilities Territorial Administration	\$	4,000	\$	4,000
560	870-607	Special Assessment	\$	100,000	\$	100,000
561	870-606	Power Siting Board	\$	337,210	\$	337,210
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000
661	870-612	Hazardous Materials Transportation	\$	900,000	\$	900,000
TOTAL SSR State Special Revenue Fund Group			\$	4,911,245	\$	4,341,245

Agency Fund Group

4G4	870-616	Base State Registration	\$	6,500,000	\$	6,500,000

Program			
TOTAL AGY Agency Fund Group	\$	6,500,000	\$ 6,500,000
TOTAL ALL BUDGET FUND GROUPS	\$	56,074,085	\$ 54,921,608
COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT			

The Commercial Vehicle Information Systems and Networks Fund is hereby created in the state treasury. The Commercial Vehicle Information Systems and Networks Fund shall receive funding from the United States Department of Transportation's Commercial Vehicle Intelligent Transportation System Infrastructure Deployment Program and shall be used to deploy the Ohio Commercial Vehicle Information Systems and Networks Project and to expedite and improve the safety of motor carrier operations through electronic exchange of data by means of on-highway electronic systems.

Notwithstanding section 4905.80 of the Revised Code, up to \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of the foregoing appropriation item 870-618, Hazardous Material Registration, may be used to pay the state share of the implementation of the Ohio Commercial Vehicle Information Systems and Networks Project.

Notwithstanding section 4923.12 of the Revised Code, up to \$435,000 in fiscal year 2004 and \$150,000 in fiscal year 2005 of the foregoing appropriation item 870-620, Civil Forfeitures, may be used to pay the state share of the implementation of the Ohio Commercial Vehicle Information Systems and Networks Project.

SECTION 87. PWC PUBLIC WORKS COMMISSION

General Revenue Fund

GRF 150-904	Conservation General Obligation Debt Service	\$	9,743,500	\$	11,235,700
GRF 150-907	State Capital Improvements General Obligation Debt Service	\$	156,974,400	\$	152,069,700
TOTAL GRF General Revenue Fund		\$	166,717,900	\$	163,305,400
Clean Ohio Fund Group					
056 150-403	Clean Ohio Operating Expenses	\$	298,200	\$	304,400
TOTAL 056 Clean Ohio Fund Group		\$	298,200	\$	304,400
TOTAL ALL BUDGET FUND GROUPS		\$	167,016,100	\$	163,609,800

CONSERVATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150-904, Conservation General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.09 of the Revised Code during the period from July 1, 2003,

to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 150-907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.08 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 150-403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering sections 164.20 to 164.27 of the Revised Code.

SECTION 88. RAC STATE RACING COMMISSION

State Special Revenue Fund Group

5C4	875-607	Simulcast Horse Racing Purse	\$	19,730,799	\$	19,476,952
562	875-601	Thoroughbred Race Fund	\$	4,642,378	\$	4,642,378
563	875-602	Standardbred Development Fund	\$	2,908,841	\$	3,161,675
564	875-603	Quarterhorse Development Fund	\$	1,000	\$	2,000
565	875-604	Racing Commission Operating	\$	4,485,777	\$	4,759,834
TOTAL SSR State Special Revenue Fund Group			\$	31,768,795	\$	32,042,839

Holding Account Redistribution Fund Group

R21	875-605	Bond Reimbursements	\$	212,900	\$	212,900
TOTAL 090 Holding Account Redistribution Fund Group			\$	212,900	\$	212,900
TOTAL ALL BUDGET FUND GROUPS			\$	31,981,695	\$	32,255,739

SECTION 89. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235-321	Operating Expenses	\$	3,336,284	\$	2,767,219
GRF 235-401	Lease Rental Payments	\$	246,500,700	\$	216,836,400
GRF 235-402	Sea Grants	\$	274,895	\$	274,895
GRF 235-403	Math/Science Teaching Improvement	\$	1,757,614	\$	1,757,614
GRF 235-404	College Readiness Initiatives	\$	3,152,603	\$	3,401,759
GRF 235-406	Articulation and Transfer	\$	733,200	\$	733,200
GRF 235-408	Midwest Higher Education	\$	82,500	\$	82,500

Am. Sub. H. B. No. 95

2029

	Compact				
GRF 235-409	Information System	\$	1,185,879	\$	1,154,671
GRF 235-414	State Grants and Scholarship Administration	\$	1,219,719	\$	1,211,373
GRF 235-415	Jobs Challenge	\$	9,348,300	\$	9,348,300
GRF 235-417	Ohio Learning Network	\$	3,413,046	\$	3,327,720
GRF 235-418	Access Challenge	\$	67,568,622	\$	67,568,622
GRF 235-420	Success Challenge	\$	51,113,077	\$	56,113,077
GRF 235-428	Appalachian New Economy Partnership	\$	1,179,893	\$	1,147,895
GRF 235-451	Eminent Scholars	\$	0	\$	1,462,500
GRF 235-454	Research Challenge	\$	18,330,000	\$	18,330,000
GRF 235-455	EnterpriseOhio Network	\$	1,505,262	\$	1,465,650
GRF 235-474	Area Health Education Centers Program Support	\$	1,722,226	\$	1,676,670
GRF 235-477	Access Improvement Projects	\$	1,048,664	\$	1,080,124
GRF 235-501	State Share of Instruction	\$	1,534,189,277	\$	1,559,096,031
GRF 235-502	Student Support Services	\$	870,675	\$	848,908
GRF 235-503	Ohio Instructional Grants	\$	111,966,343	\$	115,325,333
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321
GRF 235-507	OhioLINK	\$	7,028,392	\$	7,028,392
GRF 235-508	Air Force Institute of Technology	\$	2,096,523	\$	2,053,860
GRF 235-509	Displaced Homemakers	\$	204,865	\$	199,743
GRF 235-510	Ohio Supercomputer Center	\$	4,208,472	\$	4,103,260
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863
GRF 235-513	Ohio University Voinovich Center	\$	311,977	\$	305,178
GRF 235-514	Central State Supplement	\$	11,039,203	\$	11,039,203
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,303,612	\$	3,212,271
GRF 235-518	Capitol Scholarship Programs	\$	245,000	\$	245,000
GRF 235-519	Family Practice	\$	5,529,432	\$	5,391,196
GRF 235-520	Shawnee State Supplement	\$	2,082,289	\$	2,082,289
GRF 235-521	The Ohio State University Glenn Institute	\$	311,977	\$	305,178
GRF 235-524	Police and Fire Protection	\$	209,046	\$	203,819
GRF 235-525	Geriatric Medicine	\$	820,696	\$	800,179
GRF 235-526	Primary Care Residencies	\$	2,730,013	\$	2,661,762
GRF 235-527	Ohio Aerospace Institute	\$	1,933,607	\$	1,882,767
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000
GRF 235-531	Student Choice Grants	\$	52,139,646	\$	52,139,646
GRF 235-534	Student Workforce Development Grants	\$	2,437,500	\$	2,437,500
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,565,885	\$	13,565,885
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,157,756	\$	11,157,756
GRF 235-538	Medical College of Ohio at Toledo Clinical Teaching	\$	8,696,866	\$	8,696,866

Am. Sub. H. B. No. 95

2030

GRF 235-539	Wright State University Clinical Teaching	\$	4,225,107	\$	4,225,107
GRF 235-540	Ohio University Clinical Teaching	\$	4,084,540	\$	4,084,540
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,200,945	\$	4,200,945
GRF 235-543	Ohio College of Podiatric Medicine Clinical Subsidy	\$	424,033	\$	424,033
GRF 235-547	School of International Business	\$	1,264,611	\$	1,232,996
GRF 235-549	Part-time Student Instructional Grants	\$	14,036,622	\$	14,457,721
GRF 235-552	Capital Component	\$	18,711,936	\$	18,711,936
GRF 235-553	Dayton Area Graduate Studies Institute	\$	3,074,550	\$	2,993,937
GRF 235-554	Computer Science Graduate Education	\$	2,577,209	\$	2,512,779
GRF 235-555	Library Depositories	\$	1,775,467	\$	1,731,080
GRF 235-556	Ohio Academic Resources Network	\$	3,657,009	\$	3,803,289
GRF 235-558	Long-term Care Research	\$	230,906	\$	225,134
GRF 235-561	Bowling Green State University Canadian Studies Center	\$	121,586	\$	118,546
GRF 235-572	The Ohio State University Clinic Support	\$	1,400,394	\$	1,362,259
GRF 235-583	Urban University Programs	\$	5,692,236	\$	5,553,506
GRF 235-585	Ohio University Innovation Center	\$	41,596	\$	40,556
GRF 235-587	Rural University Projects	\$	1,224,510	\$	1,224,510
GRF 235-588	Ohio Resource Center for Mathematics, Science, and Reading	\$	853,262	\$	853,262
GRF 235-595	International Center for Water Resources Development	\$	137,352	\$	133,918
GRF 235-596	Hazardous Materials Program	\$	339,647	\$	331,156
GRF 235-599	National Guard Scholarship Program	\$	13,252,916	\$	14,578,208
GRF 235-909	Higher Education General Obligation Debt Service	\$	97,668,000	\$	130,967,600
TOTAL GRF General Revenue Fund		\$	2,443,493,342	\$	2,482,236,601
General Services Fund Group					
220 235-614	Program Approval and Reauthorization	\$	400,000	\$	400,000
456 235-603	Sales and Services	\$	500,002	\$	500,003
TOTAL GSF General Services Fund Group		\$	900,002	\$	900,003
Federal Special Revenue Fund Group					
3H2 235-608	Human Services Project	\$	1,500,000	\$	1,500,000
3N6 235-605	State Student Incentive Grants	\$	2,196,680	\$	2,196,680
3T0 235-610	National Health Service Corps - Ohio Loan Repayment	\$	150,001	\$	150,001

Am. Sub. H. B. No. 95

2031

312	235-609	Tech Prep	\$	183,850	\$	183,850
312	235-611	Gear-up Grant	\$	1,478,245	\$	1,370,691
312	235-612	Carl D. Perkins Grant/Plan Administration	\$	112,960	\$	112,960
312	235-615	Professional Development	\$	523,129	\$	523,129
312	235-616	Workforce Investment Act Administration	\$	850,000	\$	850,000
312	235-631	Federal Grants	\$	3,444,949	\$	3,150,590
TOTAL FED Federal Special Revenue Fund Group			\$	10,439,814	\$	10,037,901
State Special Revenue Fund Group						
4E8	235-602	Higher Educational Facility Commission Administration	\$	20,000	\$	20,000
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000
TOTAL SSR State Special Revenue Fund Group			\$	2,149,870	\$	2,149,870
TOTAL ALL BUDGET FUND GROUPS			\$	2,456,983,028	\$	2,495,324,375

SECTION 89.01. OPERATING EXPENSES

Of the foregoing appropriation item 235-321, Operating Expenses, up to \$500,000 shall be used in fiscal year 2004 to support the activities of the Commission on Higher Education and the Economy. The Commission shall recommend a strategy to improve the quality and efficiency of Ohio's higher education system to increase effectiveness, eliminate unnecessary duplication, broaden the use of technology, and determine how higher education can most effectively support the state's economy, best prepare Ohio students for Third Frontier jobs, and add to the quality of life for Ohio's citizens. The Commission shall also study the ten year plan for higher education in the context of curricula, the number of higher education institutions, and the number and types of higher education degrees in relation to the needs created through the Third Frontier and other high technology economic initiatives. The Director of Budget and Management may transfer any unencumbered fiscal year 2004 balance to fiscal year 2005 to support the activities of the Commission.

Of the foregoing appropriation item 235-321, Operating Expenses, \$50,000 in each fiscal year shall be distributed to the Don't Laugh at Me Program, which shall use the funds to disseminate educational resources designed to establish a climate that reduces the emotional and physical harm caused by ridicule, bullying, and violence.

LEASE RENTAL PAYMENTS

The foregoing appropriation item 235-401, Lease Rental Payments,

shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the Board of Regents pursuant to leases and agreements made under section 154.21 of the Revised Code, but limited to the aggregate amount of \$463,377,100. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.21 of the Revised Code.

SEA GRANTS

The foregoing appropriation item 235-402, Sea Grants, shall be disbursed to the Ohio State University and shall be used to conduct research on fish in Lake Erie.

MATHEMATICS AND SCIENCE TEACHING IMPROVEMENT

Appropriation item 235-403, Math/Science Teaching Improvement, shall be used by the Board of Regents to support programs such as OSI - Discovery designed to raise the quality of mathematics and science teaching in primary and secondary education.

Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$217,669 in each fiscal year shall be distributed to the Mathematics and Science Center in Lake County.

Of the foregoing appropriation item 235-403, Math/Science Teaching Improvement, \$87,068 in fiscal year 2004 and \$87,067 in fiscal year 2005 shall be distributed to the Ohio Mathematics and Science Coalition.

COLLEGE READINESS INITIATIVES

Appropriation item 235-404, College Readiness Initiatives, shall be used by the Board of Regents to support programs designed to improve the academic preparation and increase the number of students that enroll and succeed in higher education.

MIDWEST HIGHER EDUCATION COMPACT

The foregoing appropriation item 235-408, Midwest Higher Education Compact, shall be distributed by the Board of Regents pursuant to section 3333.40 of the Revised Code.

INFORMATION SYSTEM

The foregoing appropriation item 235-409, Information System, shall be used by the Board of Regents to operate the higher education information data system known as the Higher Education Information System.

SECTION 89.02. JOBS CHALLENGE

Funds appropriated to appropriation item 235-415, Jobs Challenge, shall be distributed to state-assisted community and technical colleges, regional

campuses of state-assisted universities, and other organizationally distinct and identifiable member campuses of the EnterpriseOhio Network in support of noncredit job-related training. In each fiscal year, \$2,770,773 shall be distributed as performance grants to EnterpriseOhio Network campuses based upon each campus's documented performance according to criteria established by the Board of Regents for increasing training and related services to businesses, industries, and public sector organizations.

Of the foregoing appropriation item 235-415, Jobs Challenge, \$2,819,345 in each fiscal year shall be allocated to the Targeted Industries Training Grant Program to attract, develop, and retain business and industry strategically important to the state's economy.

Also, in each fiscal year, \$3,758,182 shall be allocated to the Higher Skills Incentives Program to promote and deliver coordinated, comprehensive training to local employers and to reward EnterpriseOhio Network campuses for increasing the amount of non-credit skill upgrading services provided to Ohio employers and employees. The funds shall be distributed to campuses in proportion to each campus's share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that this Higher Skills Incentives component of the Jobs Challenge Program reward campus noncredit job-related training efforts in the same manner that the Research Challenge Program rewards campuses for their ability to obtain sponsored research revenues.

OHIO LEARNING NETWORK

Appropriation item 235-417, Ohio Learning Network, shall be used by the Board of Regents to support the continued implementation of the Ohio Learning Network, a statewide electronic collaborative effort designed to promote degree completion of students, workforce training of employees, and professional development through the use of advanced telecommunications and distance education initiatives.

ACCESS CHALLENGE

In each fiscal year, the foregoing appropriation item 235-418, Access Challenge, shall be distributed to Ohio's state-assisted access colleges and universities. For the purposes of this allocation, "access campuses" includes state-assisted community colleges, state community colleges, technical colleges, Shawnee State University, Central State University, Cleveland State University, the regional campuses of state-assisted universities, and, where they are organizationally distinct and identifiable, the community-technical colleges located at the University of Cincinnati, Youngstown State University, and the University of Akron.

The purpose of Access Challenge is to reduce the student share of costs for resident undergraduates enrolled in lower division undergraduate courses at Ohio's access campuses. The long-term goal is to make the student share of costs for these students equivalent to the student share of costs for resident undergraduate students enrolled throughout Ohio's public colleges and universities. Access Challenge appropriations shall be used in both years of the biennium to sustain, as much as possible, the tuition restraint or tuition reduction that was achieved with Access Challenge allocations in prior years.

In fiscal year 2004, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2001 and 2002 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2005, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2002 and 2003 all-terms subsidy-eligible General Studies FTEs.

For the purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: the Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami University, the University of Cincinnati, the University of Akron, and Wright State University.

SUCCESS CHALLENGE

The foregoing appropriation item 235-420, Success Challenge, shall be used by the Board of Regents to promote degree completion by students enrolled at a main campus of a state-assisted university.

Of the foregoing appropriation item 235-420, Success Challenge, 71.77 per cent of the appropriation in fiscal year 2004 and 74.29 per cent of the appropriation in fiscal year 2005 shall be distributed to state-assisted university main campuses in proportion to each campus's share of the total statewide bachelor's degrees granted by university main campuses to "at-risk" students. In fiscal years 2004 and 2005, an "at-risk" student means any undergraduate student who was eligible to receive an Ohio Instructional Grant during the past ten years. An eligible institution shall not receive its share of this distribution until it has submitted a plan that addresses how the subsidy will be used to better serve at-risk students and increase their likelihood of successful completion of a bachelor's degree program. The

Board of Regents shall disseminate to all state-supported institutions of higher education all such plans submitted by institutions that received Success Challenge funds.

Of the foregoing appropriation item 235-420, Success Challenge, 28.23 per cent of the appropriation in fiscal year 2004, and 25.71 per cent of the appropriation in fiscal year 2005 shall be distributed to university main campuses in proportion to each campus's share of the total bachelor's degrees granted by university main campuses to undergraduate students who completed their bachelor's degrees in a "timely manner" in the previous fiscal year. For the purposes of this section, "timely manner" means the normal time it would take for a full-time degree-seeking undergraduate student to complete the student's degree. Generally, for such students pursuing a bachelor's degree, "timely manner" means four years. Exceptions to this general rule shall be permitted for students enrolled in programs specifically designed to be completed in a longer time period. The Board of Regents shall collect data to assess the timely completion statistics by university main campuses.

APPALACHIAN NEW ECONOMY PARTNERSHIP

The foregoing appropriation item 235-428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

EMINENT SCHOLARS

The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to establish an Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Ohio Eminent Scholars endowed chairs will allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which our technology and commercialization efforts are built. Endowment grants of approximately \$750,000 to state colleges and universities and nonprofit Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code to match endowment gifts from nonstate sources may be made in accordance with a plan established by the Ohio Board of Regents. Matching nonstate gifts in science and technology programs shall be \$750,000. The grants shall have

as their purpose attracting and sustaining in Ohio scholar-leaders of national or international prominence; each will assist in accelerating state economic growth through research that provides an essential basic science platform for commercialization efforts. Such scholar-leaders shall, among their duties, share broadly the benefits and knowledge unique to their fields of scholarship to the betterment of Ohio and its people and collaborate with other state technology programs and program recipients.

RESEARCH CHALLENGE

The foregoing appropriation item 235-454, Research Challenge, shall be used to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued pursuant to section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Challenge Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional allocation of state dollars received through the program. The institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support. Each institutional plan for the investment of Research Challenge moneys shall report on existing, planned, and/or possible relationships with other State of Ohio science and technology programs and funding recipients in order to further ongoing statewide science and technology collaboration objectives. The Board of Regents shall submit a biennial report of progress to the General Assembly.

ENTERPRISEOHIO NETWORK

The foregoing appropriation item 235-455, EnterpriseOhio Network, shall be allocated by the Board of Regents to continue increasing the capabilities of the EnterpriseOhio Network to meet the ongoing training needs of Ohio employers. Funds shall support multicampus collaboration, best practice dissemination, and capacity building projects. The Regents Advisory Committee for Workforce Development, in its advisory role, shall advise in the development of plans and activities.

Of the foregoing appropriation item 235-455, EnterpriseOhio Network, \$181,101 in fiscal year 2004 and \$176,334 in fiscal year 2005 shall be used by the Dayton Business/Sinclair College Jobs Profiling Program.

SECTION 89.03. AREA HEALTH EDUCATION CENTERS

The foregoing appropriation item 235-474, Area Health Education Centers Program Support, shall be used by the Board of Regents to support the medical school regional area health education centers' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center Program.

Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$174,135 in fiscal year 2004 and \$169,782 in fiscal year 2005 shall be disbursed to the Ohio University College of Osteopathic Medicine to operate a mobile health care unit to serve the southeastern area of the state. Of the foregoing appropriation item 235-474, Area Health Education Centers Program Support, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) project.

ACCESS IMPROVEMENT PROJECTS

The foregoing appropriation item 235-477, Access Improvement Projects, shall be used by the Board of Regents to support innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students.

Of the foregoing appropriation item 235-477, Access Improvement Projects, \$798,684 in fiscal year 2004 and \$822,645 in fiscal year 2005 shall be distributed to the Ohio Appalachian Center for Higher Education at Shawnee State University. The board of directors of the center shall consist of the presidents of Shawnee State University, Ohio University, Belmont Technical College, Hocking Technical College, Jefferson Community College, Muskingum Area Technical College, Rio Grande Community College, Southern State Community College, and Washington State Community College; the dean of one of the Salem, Tuscarawas, and East Liverpool regional campuses of Kent State University, as designated by the president of Kent State University; and a representative of the Board of Regents designated by the Chancellor.

Of the foregoing appropriation item 235-477, Access Improvement Projects, \$169,553 in fiscal year 2004 and \$174,640 in fiscal year 2005 shall

be distributed to Miami University for the Student Achievement in Research and Scholarship (STARS) Program.

SECTION 89.04. STATE SHARE OF INSTRUCTION

As soon as practicable during each fiscal year of the 2003-2005 biennium in accordance with instructions of the Board of Regents, each state-assisted institution of higher education shall report its actual enrollment to the Board of Regents.

The Board of Regents shall establish procedures required by the system of formulas set out below and for the assignment of individual institutions to categories described in the formulas. The system of formulas establishes the manner in which aggregate expenditure requirements shall be determined for each of the three components of institutional operations. In addition to other adjustments and calculations described below, the subsidy entitlement of an institution shall be determined by subtracting from the institution's aggregate expenditure requirements income to be derived from the local contributions assumed in calculating the subsidy entitlements. The local contributions for purposes of determining subsidy support shall not limit the authority of the individual boards of trustees to establish fee levels.

The General Studies and Technical models shall be adjusted by the Board of Regents so that the share of state subsidy earned by those models is not altered by changes in the overall local share. A lower-division fee differential shall be used to maintain the relationship that would have occurred between these models and the baccalaureate models had an assumed share of 37 per cent been funded.

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

(A) AGGREGATE EXPENDITURE PER FULL-TIME
EQUIVALENT STUDENT

(1) INSTRUCTION AND SUPPORT SERVICES

MODEL	FY 2004	FY 2005
General Studies I	\$ 4,947	\$ 4,983
General Studies II	\$ 5,323	\$ 5,336
General Studies III	\$ 6,883	\$ 7,120
Technical I	\$ 5,913	\$ 6,137
Technical III	\$ 9,522	\$ 10,026

2039

Baccalaureate I	\$ 7,623	\$ 7,721
Baccalaureate II	\$ 8,584	\$ 8,864
Baccalaureate III	\$ 12,559	\$ 12,932
Masters and Professional I	\$ 15,867	\$ 18,000
Masters and Professional II	\$ 20,861	\$ 22,141
Masters and Professional III	\$ 27,376	\$ 28,190
Medical I	\$ 30,867	\$ 31,819
Medical II	\$ 41,495	\$ 41,960
MPD I	\$ 14,938	\$ 14,966

(2) STUDENT SERVICES

For this purpose, FTE counts shall be weighted to reflect differences among institutions in the numbers of students enrolled on a part-time basis. The student services subsidy per FTE shall be \$822 in fiscal year 2004 and \$903 in fiscal year 2005 for all models.

(B) PLANT OPERATION AND MAINTENANCE (POM)

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY

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

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

The space inventories for each campus shall be those determined in the fiscal year 2003 state share of instruction calculation, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995.

Only 50 per cent of the space permanently taken out of operation in fiscal year 2004 or fiscal year 2005 that is not otherwise replaced by a campus shall be deleted from the plant operation and maintenance space inventory.

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

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

	FY 2004	FY 2005
Classrooms	\$5.80	\$6.04
Laboratories	\$7.22	\$7.53

Offices	\$5.80	\$6.04
Audio Visual Data Processing	\$7.22	\$7.53
Storage	\$2.57	\$2.68
Circulation	\$7.31	\$7.62
Other	\$5.80	\$6.04

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

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

(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY

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

	FY 2004	FY 2005
General Studies I	\$ 552	\$ 560
General Studies II	\$ 696	\$ 705
General Studies III	\$1,608	\$1,651
Technical I	\$ 777	\$ 806
Technical III	\$1,501	\$1,570
Baccalaureate I	\$ 700	\$ 706
Baccalaureate II	\$1,250	\$1,232
Baccalaureate III	\$1,520	\$1,458
Masters and Professional I	\$1,258	\$1,301
Masters and Professional II	\$2,817	\$2,688
Masters and Professional III	\$3,832	\$3,712
Medical I	\$2,663	\$2,669
Medical II	\$3,837	\$4,110
MPD I	\$1,213	\$1,233

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

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS

The calculation of the core subsidy entitlement shall consist of the

following components:

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

(b) In calculating the core subsidy entitlements for Medical II models only, the Board of Regents shall use the following count of FTE students:

(i) For those medical schools whose current year enrollment, including students repeating terms, is below the base enrollment, the Medical II FTE enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment including students repeating terms, where the base enrollment is:

The Ohio State University	1010
University of Cincinnati	833
Medical College of Ohio at Toledo	650
Wright State University	433
Ohio University	433
Northeastern Ohio Universities College of Medicine	433

(ii) For those medical schools whose current year enrollment, excluding students repeating terms, is equal to or greater than the base enrollment, the Medical II FTE enrollment shall equal the base enrollment plus the FTE for repeating students.

(iii) Students repeating terms may be no more than five per cent of current year enrollment.

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

The POM subsidy for each campus shall equal the greater of the square-foot-based subsidy or the activity-based POM subsidy component of the core subsidy entitlement.

(d) The state share of instruction provided for doctoral students shall be based on a fixed percentage of the total appropriation. In each fiscal year of the biennium not more than 10.34 per cent of the total state share of instruction shall be reserved to implement the recommendations of the Graduate Funding Commission. It is the intent of the General Assembly that the doctoral reserve not exceed 10.34 per cent of the total state share of

instruction to implement the recommendations of the Graduate Funding Commission. The Board of Regents may reallocate up to two per cent in each fiscal year of the reserve among the state-assisted universities on the basis of a quality review as specified in the recommendations of the Graduate Funding Commission. No such reallocation shall occur unless the Board of Regents, in consultation with representatives of state-assisted universities, determines that sufficient funds are available for this purpose.

The amount so reserved shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review and subsequent changes in Doctoral I equivalent enrollments. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING GUARANTEE

In addition to and after the other adjustment noted above, in fiscal year 2004, no campus shall receive a state share of instruction allocation that is less than 100 per cent of the prior year's state share of instruction amount. In fiscal year 2005, no campus shall receive a state share of instruction allocation that is less than 99 per cent of what that campus' state share of instruction would have been had the allocation in fiscal year 2004 been not less than 99 per cent, rather than 100 per cent, of the prior year's state share of instruction amount.

(3) CAPITAL COMPONENT DEDUCTION

After all other adjustments have been made, state share of instruction earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. No. 748 of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd General Assembly, Am. H.B. No. 640 of the 123rd General Assembly, and H.B. No. 675 of the 124th General Assembly for that campus exceeds that campus's capital component earnings. The sum of the amounts deducted shall be transferred to appropriation item 235-552, Capital Component, in each fiscal year.

(D) REDUCTIONS IN EARNINGS

If the total state share of instruction earnings in any fiscal year exceed the total appropriations available for such purposes, the Board of Regents shall proportionately reduce the state share of instruction earnings for all campuses by a uniform percentage so that the system wide sum equals

available appropriations.

(E) EXCEPTIONAL CIRCUMSTANCES

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

(F) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF INSTRUCTION

The standard provisions of the state share of instruction calculation as described in the preceding sections of temporary law shall apply to any reductions made to appropriation line item 235-501, State Share of Instruction, before the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year.

Any reductions made to appropriation line item 235-501, State Share of Instruction, after the Board of Regents has formally approved the final allocation of the state share of instruction funds for any fiscal year, shall be uniformly applied to each campus in proportion to its share of the final allocation.

(G) DISTRIBUTION OF STATE SHARE OF INSTRUCTION

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

(H) LAW SCHOOL SUBSIDY

The state share of instruction to state-supported universities for students enrolled in law schools in fiscal year 2004 and fiscal year 2005 shall be calculated by using the number of subsidy-eligible FTE law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy-eligible FTE law school students at the institution in the fiscal year, whichever is less.

SECTION 89.05. HIGHER EDUCATION - BOARD OF TRUSTEES

Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus

undergraduate courses of study and such master's degree courses of study as may be approved by the Board of Regents.

In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies by income from charges to students. Each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. Except for the board of trustees of Miami University, in implementing the pilot tuition restructuring plan recognized by this act, a tuition surcharge shall be paid by all students who are not residents of Ohio.

The boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges shall limit in-state undergraduate instructional and general fee increases for an academic year over the amounts charged in the prior academic year to no more than six per cent. In addition to the six per cent main campus in-state undergraduate instructional and general fee increase limit established in this section, the Board of Trustees of The Ohio State University may authorize an additional university main campus in-state undergraduate instructional and general fee increase of three per cent for academic years 2003-2004 and 2004-2005. Except for the board of trustees of the Ohio State University, the boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges shall not authorize combined instructional and general fee increases of more than six per cent in a single vote. The board of trustees of The Ohio State University shall not authorize combined instructional and general fee increases of more than nine per cent in a single vote. The boards of trustees of individual state-assisted universities, university branch campuses, community colleges, state community colleges, and technical colleges may authorize an additional 3.9 per cent increase in in-state undergraduate instructional and general fees in a separate vote. The additional increase shall only be used for providing scholarships to low-income students, to be known as Access

Scholarship Grants, to provide additional or improved technology services to students. These fee increase limitations apply even if an institutional board of trustees has, prior to the effective date of this section, voted to assess a higher fee for the 2003-2004 academic year. These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this act with respect to which the institution had identified such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations, or commitments shall be reported by the Board of Regents to the Controlling Board. These limitations may also be modified by the Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Board of Regents.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees or general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees. This prohibition is not intended to limit the authority of the board of trustees of Miami University in providing financial assistance to students in implementing the pilot tuition restructuring plan recognized by this act.

Except for Miami University, in implementing the pilot tuition restructuring plan recognized by this act, each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

In providing the appropriations in support of instructional services at state-assisted institutions of higher education and the appropriations for other instruction it is the intent of the General Assembly that faculty members shall devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Board of Regents.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

The General Assembly recognizes the pilot tuition restructuring plan of the board of trustees of Miami University for undergraduate students enrolled at the Oxford campus. The purpose of this plan is to make higher education more affordable for moderate income Ohioans, encourage high-achieving Ohio students to stay in Ohio rather than attending colleges in other states, and provide incentives for Ohio students to major in areas crucial to Ohio's priorities and future economic development.

Notwithstanding any limit on in-state undergraduate instructional and general fees imposed by this act, the General Assembly recognizes that the plan will provide that all undergraduate students enrolled at the Oxford campus will be charged combined instructional and general fees in an amount equal to the nonresident instructional and general fees and tuition surcharge. For both resident student first enrolling on or after the summer term of 2003 and resident students who enrolled prior to this date, any increases in fees approved thereafter by the board of trustees are subject to any instructional and general fee caps imposed by the General Assembly.

The General Assembly recognizes that the plan provides that all students who are residents of Ohio will receive student financial assistance in an amount to be determined by the University.

The General Assembly recognizes that the plan provides that, for any resident student who enrolls at the Miami University Oxford campus prior to August 2004, the plan will have no direct financial impact except for paper changes on invoices so that such a student would only pay instructional and general fees in an amount equivalent to what the student was charged in the preceding year in addition to any increases in fees approved by the board of trustees.

SECTION 89.06. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235-502, Student Support Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

OHIO INSTRUCTIONAL GRANTS

Notwithstanding section 3333.12 of the Revised Code, in lieu of the tables in that section, instructional grants for all full-time students shall be made for fiscal year 2004 using the tables under this heading.

The tables under this heading prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. The grant amount for a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under these tables shall be a percentage of the maximum prescribed in the applicable table. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under the table. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under the table.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution Table of Grants Maximum Grant \$5,466 Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288

\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178
\$33,001 - \$34,000	888	984	1,080	1,344	1,626
\$34,001 - \$35,000	444	888	984	1,080	1,344
\$35,001 - \$36,000	--	444	888	984	1,080
\$36,001 - \$37,000	--	--	444	888	984
\$37,001 - \$38,000	--	--	--	444	888
\$38,001 - \$39,000	--	--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Gross Income	Private Institution					
	Table of Grants					
	Maximum Grant \$5,466					
	Number of Dependents					
	0	1	2	3	4	5 or more
Under \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466
\$5,301 - \$5,800	4,362	5,028	5,466	5,466	5,466	5,466
\$5,801 - \$6,300	3,828	4,584	5,028	5,466	5,466	5,466
\$6,301 - \$6,800	3,288	4,158	4,584	5,028	5,466	5,466
\$6,801 - \$7,300	2,736	3,726	4,158	4,584	5,028	5,466
\$7,301 - \$8,300	2,178	3,282	3,726	4,158	4,584	5,028
\$8,301 - \$9,300	1,626	2,838	3,282	3,726	4,158	4,584
\$9,301 - \$10,300	1,344	2,394	2,838	3,282	3,726	4,158
\$10,301 - \$11,800	1,080	2,166	2,394	2,838	3,282	3,726
\$11,801 - \$13,300	984	1,956	2,166	2,394	2,838	3,282
\$13,301 - \$14,800	888	1,878	1,956	2,166	2,394	2,838
\$14,801 - \$16,300	444	1,692	1,878	1,956	2,166	2,394
\$16,301 - \$19,300	--	1,122	1,584	1,770	1,956	2,166
\$19,301 - \$22,300	--	546	1,014	1,476	1,662	1,848
\$22,301 - \$25,300	--	438	546	1,014	1,476	1,662
\$25,301 - \$30,300	--	324	438	546	1,014	1,476
\$30,301 - \$35,300	--	198	216	270	324	792

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state

board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution Table of Grants Maximum Grant \$4,632					
Gross Income	Number of Dependents				
	1	2	3	4	5 or more
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292
\$32,001 - \$33,000	852	906	1,134	1,416	1,854
\$33,001 - \$34,000	750	852	906	1,134	1,416
\$34,001 - \$35,000	372	750	852	906	1,134
\$35,001 - \$36,000	--	372	750	852	906
\$36,001 - \$37,000	--	--	372	750	852
\$37,001 - \$38,000	--	--	--	372	750
\$38,001 - \$39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution Table of Grants Maximum Grant \$4,632						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or

						more
Under \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632
\$5,301 - \$5,800	3,684	4,272	4,632	4,632	4,632	4,632
\$5,801 - \$6,300	3,222	3,876	4,272	4,632	4,632	4,632
\$6,301 - \$6,800	2,790	3,504	3,876	4,272	4,632	4,632
\$6,801 - \$7,300	2,292	3,156	3,504	3,876	4,272	4,632
\$7,301 - \$8,300	1,854	2,760	3,156	3,504	3,876	4,272
\$8,301 - \$9,300	1,416	2,412	2,760	3,156	3,504	3,876
\$9,301 - \$10,300	1,134	2,058	2,412	2,760	3,156	3,504
\$10,301 - \$11,800	906	1,836	2,058	2,412	2,760	3,156
\$11,801 - \$13,300	852	1,650	1,836	2,058	2,412	2,760
\$13,301 - \$14,800	750	1,608	1,650	1,836	2,058	2,412
\$14,801 - \$16,300	372	1,434	1,608	1,650	1,836	2,058
\$16,301 - \$19,300	--	942	1,338	1,518	1,650	1,836
\$19,301 - \$22,300	--	456	858	1,242	1,416	1,560
\$22,301 - \$25,300	--	372	456	858	1,242	1,416
\$25,301 - \$30,300	--	282	372	456	858	1,242
\$30,301 - \$35,300	--	168	180	228	282	666

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants Maximum Grant \$2,190 Number of Dependents					
Gross Income	1	2	3	4	5 or more
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740
\$25,001 - \$28,000	648	864	1,080	1,320	1,542
\$28,001 - \$31,000	522	648	864	1,080	1,320
\$31,001 - \$32,000	420	522	648	864	1,080
\$32,001 - \$33,000	384	420	522	648	864

\$33,001 - \$34,000	354	384	420	522	648
\$34,001 - \$35,000	174	354	384	420	522
\$35,001 - \$36,000	--	174	354	384	420
\$36,001 - \$37,000	--	--	174	354	384
\$37,001 - \$38,000	--	--	--	174	354
\$38,001 - \$39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants Maximum Grant \$2,190						
Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
Under \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190
\$5,301 - \$5,800	1,740	2,016	2,190	2,190	2,190	2,190
\$5,801 - \$6,300	1,542	1,830	2,016	2,190	2,190	2,190
\$6,301 - \$6,800	1,320	1,674	1,830	2,016	2,190	2,190
\$6,801 - \$7,300	1,080	1,494	1,674	1,830	2,016	2,190
\$7,301 - \$8,300	864	1,302	1,494	1,674	1,830	2,016
\$8,301 - \$9,300	648	1,128	1,302	1,494	1,674	1,830
\$9,301 - \$10,300	522	954	1,128	1,302	1,494	1,674
\$10,301 - \$11,800	420	858	954	1,128	1,302	1,494
\$11,801 - \$13,300	384	774	858	954	1,128	1,302
\$13,301 - \$14,800	354	744	774	858	954	1,128
\$14,801 - \$16,300	174	678	744	774	858	954
\$16,301 - \$19,300	--	450	630	702	774	858
\$19,301 - \$22,300	--	216	402	594	654	732
\$22,301 - \$25,300	--	174	216	402	594	654
\$25,301 - \$30,300	--	132	174	216	402	594
\$30,301 - \$35,300	--	78	84	102	132	312

The foregoing appropriation item 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

The unencumbered balance of appropriation item 235-503, Ohio Instructional Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item. The amounts transferred are hereby appropriated.

WAR ORPHANS SCHOLARSHIPS

The foregoing appropriation item 235-504, War Orphans Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

SECTION 89.07. AIR FORCE INSTITUTE OF TECHNOLOGY

The foregoing appropriation item 235-508, Air Force Institute of Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio. Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$1,317,173 in fiscal year 2004 and \$1,315,929 in fiscal year 2005 shall be used for research projects that connect the Air Force Research Laboratories with university partners. The institute shall provide annual reports to the Third Frontier Commission, that discuss existing, planned, or possible collaborations between programs and funding recipients related to technology, research development, commercialization, and support for Ohio's economic development.

Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$477,237 in fiscal year 2004 and \$476,786 in fiscal year 2005 shall be used to match federal dollars to support the Wright Brothers Institute. Funds shall be used by the Wright Brothers Institute to create or expand Ohio-based technology and commercial development collaborations between industry, academia, and government in areas which include carbon nano-tube materials technology, genome-based biotechnology, knowledge-creation information technology, cognitive systems modeling and engineering, or other related projects as deemed appropriate by the institute.

Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$302,113 in fiscal year 2004 and \$261,145 in fiscal year 2005 shall be used to directly support collaborative research between academia, industry, and the Air Force for Wright Brothers Institute Nanomaterials and

Advanced Data Management and Analysis.

OHIO SUPERCOMPUTER CENTER

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the center shall be established by a governance committee, representative of Ohio's research universities and private industry, to be appointed by the Chancellor of the Board of Regents and established for this purpose.

The Ohio Supercomputer Center shall report on expanding solutions-oriented, computational science services to industrial and other customers, including alignment programs and recipients, and develop a plan for a computational science initiative in collaboration with the Wright Centers of Innovation program and the Computer Science Graduate Studies Program.

COOPERATIVE EXTENSION SERVICE

The foregoing appropriation item 235-511, Cooperative Extension Service, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used for additional staffing for county agents for expanded 4-H activities. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$182,842 in fiscal year 2004 and \$178,271 in fiscal year 2005 shall be used by the Cooperative Extension Service, through the Enterprise Center for Economic Development in cooperation with other agencies, for a public-private effort to create and operate a small business economic development program to enhance the development of alternatives to the growing of tobacco, and implement, through applied research and demonstration, the production and marketing of other high-value crops and value-added products. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$56,594 in fiscal year 2004 and \$55,179 in fiscal year 2005 shall be used for farm labor mediation and education programs. Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$187,195 in fiscal year 2004 and \$182,515 in fiscal year 2005 shall be used to support the Ohio State University Marion Enterprise Center.

Of the foregoing appropriation item 235-511, Cooperative Extension Service, \$792,750 in fiscal year 2004 and \$772,931 in fiscal year 2005 shall be used to support the Ohio Watersheds Initiative.

CENTRAL STATE SUPPLEMENT

The foregoing appropriation item 235-514, Central State Supplement, shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes.

PERFORMANCE STANDARDS FOR MEDICAL EDUCATION

The Board of Regents, in consultation with the state-assisted medical colleges, shall develop performance standards for medical education. Special emphasis in the standards shall be placed on attempting to ensure that at least 50 per cent of the aggregate number of students enrolled in state-assisted medical colleges continue to enter residency as primary care physicians. Primary care physicians are general family practice physicians, general internal medicine practitioners, and general pediatric care physicians. The Board of Regents shall monitor medical school performance in relation to their plans for reaching the 50 per cent systemwide standard for primary care physicians.

SECTION 89.08. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF MEDICINE

The foregoing appropriation item 235-515, Case Western Reserve University School of Medicine, shall be disbursed to Case Western Reserve University through the Board of Regents in accordance with agreements entered into as provided for by section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

FAMILY PRACTICE, GERIATRIC MEDICINE, AND PRIMARY CARE RESIDENCIES

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation items 235-519, Family Practice, 235-525, Geriatric Medicine, and 235-526, Primary Care Residencies.

SHAWNEE STATE SUPPLEMENT

The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees

below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.

POLICE AND FIRE PROTECTION

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 each year. Funds shall be distributed according to the methodology employed by the Board of Regents in the previous biennium.

PRIMARY CARE RESIDENCIES

The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

OHIO AEROSPACE INSTITUTE

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

ACADEMIC SCHOLARSHIPS

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

STUDENT CHOICE GRANTS

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2004 shall be transferred to fiscal year 2005 for use under the same appropriation item to maintain grant award amounts in fiscal year 2005 equal to the awards provided in fiscal year 2004. The amounts transferred are hereby appropriated.

STUDENT WORKFORCE DEVELOPMENT GRANTS

The foregoing appropriation item 235-534, Student Workforce Development Grants, shall be used to support the Student Workforce Development Grant Program. Of the appropriated funds available, the Board of Regents shall distribute grants to each eligible student in an academic year. The size of each grant award shall be determined by the Board of Regents based on the amount of funds available for the program.

OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT CENTER

The foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, shall be disbursed through the Board of Regents to The Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to section 126.09 of the Revised Code. The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the 2003-2005 biennium for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the center. The Ohio Agricultural Research and Development Center, in conjunction with the Third Frontier Commission, shall provide for an independently evaluated self-study of research excellence and commercial relevance in a manner to be prescribed by the Third Frontier Commission.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$470,164 in fiscal year 2004 and \$458,410 in fiscal year 2005 shall be used to purchase equipment.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$827,141 in fiscal year 2004 and \$806,463 in fiscal year 2005 shall be distributed to the Piketon Agricultural Research and Extension Center.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$217,669 in fiscal year 2004 and \$212,227 in fiscal year 2005 shall be distributed to the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio State University Medical College in cooperation with the Ohio State University College of Agriculture.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$43,534 in fiscal year 2004 and \$42,445 in fiscal year 2005 shall be used to support the Ohio Berry Administrator.

Of the foregoing appropriation item 235-535, Ohio Agricultural Research and Development Center, \$87,067 in fiscal year 2004 and \$84,890

in fiscal year 2005 shall be used for the development of agricultural crops and products not currently in widespread production in Ohio, in order to increase the income and viability of family farmers.

STATE UNIVERSITY CLINICAL TEACHING

The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical College of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

SCHOOL OF INTERNATIONAL BUSINESS

Of the foregoing appropriation item 235-547, School of International Business, \$901,975 in fiscal year 2004 and \$879,426 in fiscal year 2005 shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located at the University of Akron. It may confer with Kent State University, Youngstown State University, and Cleveland State University as to the curriculum and other matters regarding the school.

Of the foregoing appropriation item 235-547, School of International Business, \$181,318 in fiscal year 2004 and \$176,785 in fiscal year 2005 shall be used by the University of Toledo College of Business for expansion of its international business programs.

Of the foregoing appropriation item 235-547, School of International Business, \$181,318 in fiscal year 2004 and \$176,785 in fiscal year 2005 shall be used to support the Ohio State University BioMEMS program.

PART-TIME STUDENT INSTRUCTIONAL GRANTS

The foregoing appropriation item 235-549, Part-time Student Instructional Grants, shall be used to support a grant program for part-time undergraduate students who are Ohio residents and who are enrolled in degree granting programs.

Eligibility for participation in the program shall include degree granting educational institutions that hold a certificate of registration from the State Board of Career Colleges and Schools, and nonprofit institutions that have a

certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, as well as state-assisted colleges and universities. Grants shall be given to students on the basis of need, as determined by the college, which, in making these determinations, shall give special consideration to single-parent heads-of-household and displaced homemakers who enroll in an educational degree program that prepares the individual for a career. In determining need, the college also shall consider the availability of educational assistance from a student's employer. It is the intent of the General Assembly that these grants not supplant such assistance.

SECTION 89.09. CAPITAL COMPONENT

The foregoing appropriation item 235-552, Capital Component, shall be used by the Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. No. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects is less than the campus's formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects from the campus's formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Any campus for which the estimated campus debt service attributable to qualifying capital projects is greater than the campus's formula-determined capital component allocation shall have the difference subtracted from its State Share of Instruction allocation in each fiscal year. The sum of all such amounts shall be transferred from appropriation item 235-501, State Share of Instruction, to appropriation item 235-552, Capital Component.

DAYTON AREA GRADUATE STUDIES INSTITUTE

The foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, shall be used by the Board of Regents to support the Dayton Area Graduate Studies Institute, an engineering graduate consortium of three universities in the Dayton area: Wright State University, the University of Dayton, and the Air Force Institute of Technology, with the participation of the University of Cincinnati and The Ohio State University.

Of the foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, \$497,666 in fiscal year 2004 and \$417,053 in fiscal year 2005 shall be used by the Miami Valley Economic Development Research Corporation to support collaborative research between academia, industry, and the Air Force for the Wright Brothers Institute and related initiatives in

nanomaterials and advanced data management and analysis.

COMPUTER SCIENCE GRADUATE EDUCATION

The foregoing appropriation item 235-554, Computer Science Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs in computer science at state-assisted universities. Up to \$174,135 in fiscal year 2004, and up to \$169,782 in fiscal year 2005, may be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Ohio Supercomputer Center.

OHIO ACADEMIC RESOURCES NETWORK (OARNET)

The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

LONG-TERM CARE RESEARCH

The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER

The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

THE OHIO STATE UNIVERSITY CLINIC SUPPORT

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

SECTION 89.10. URBAN UNIVERSITY PROGRAMS

Of the foregoing appropriation item 235-583, Urban University Programs, universities receiving funds that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from

continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Programs, \$301,218 in fiscal year 2004 and \$293,300 in fiscal year 2005 shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Programs, \$142,682 in fiscal year 2004 and \$138,932 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education, and health disciplines.

Of the foregoing appropriation item 235-583, Urban University Programs, \$206,097 in fiscal year 2004 and \$200,679 in fiscal year 2005 shall be used to support the Kent State University Learning and Technology Project. This project is a kindergarten through university collaboration between schools surrounding Kent's eight campuses in northeast Ohio, and corporate partners who will assist in development and delivery.

The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; and hardware and software to schools that will make possible the delivery of instruction to pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This shall involve the delivery of low-bandwidth streaming video and web-based technologies in a distributed instructional model.

Of the foregoing appropriation item 235-583, Urban University Programs, \$79,267 in fiscal year 2004 and \$77,184 in fiscal year 2005 shall be used to support the Ameritech Classroom/Center for Research at Kent State University.

Of the foregoing appropriation item 235-583, Urban University Programs, \$792,682 in fiscal year 2004 and \$771,843 in fiscal year 2005 shall be used to support the Polymer Distance Learning Project at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$39,634 in fiscal year 2004 and \$38,592 in fiscal year 2005 shall be distributed to the Kent State University/Cleveland Design Center program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$198,170 in fiscal year 2004 and \$192,960 in fiscal year 2005 shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$11,892 in fiscal year 2004 and \$11,576 in fiscal year 2005 shall be used for the Advancing-Up Program at the University of Akron.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,744,404 in fiscal year 2004 and \$1,698,546 in fiscal year 2005 shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

Of the foregoing appropriation item 235-583, Urban University Programs, \$1,744,404 in fiscal year 2004 and \$1,698,546 in fiscal year 2005 shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

Of the foregoing appropriation item 235-583, Urban University Programs, \$165,893 in fiscal year 2004 and \$165,674 in fiscal year 2005 shall be used to support the Strategic Economic Research Collaborative at the University of Toledo Urban Affairs Center.

Of the foregoing appropriation item 235-583, Urban University Programs, \$165,893 in fiscal year 2004 and \$165,674 in fiscal year 2005 shall be used to support the Institute for Collaborative Research and Public Humanities at The Ohio State University.

Notwithstanding the other earmarks in this section, of the foregoing appropriation item 235-583, Urban University Programs, \$100,000 in each fiscal year shall be used to support the Medina County University Center. The other earmarks of appropriation item 235-583, Urban University Programs, shall be proportionately reduced.

Of the foregoing appropriation item 235-583, Urban University Programs, \$100,000 in each fiscal year shall be used to support the Medina

Learning Center.

RURAL UNIVERSITY PROJECTS

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive \$281,391 in fiscal year 2004 and \$281,391 in fiscal year 2005, Miami University shall receive \$261,694 in fiscal year 2004 and \$261,694 in fiscal year 2005, and Ohio University shall receive \$613,397 in fiscal year 2004 and \$613,397 in fiscal year 2005. These funds shall be used to support the Institute for Local Government Administration and Rural Development at Ohio University, the Center for Public Management and Regional Affairs at Miami University, and the Center for Policy Analysis and Public Service at Bowling Green State University.

A small portion of the funds provided to Ohio University shall also be used for the Institute for Local Government Administration and Rural Development State and Rural Policy Partnership with the Governor's Office of Appalachia and the Appalachian delegation of the General Assembly.

Of the foregoing appropriation item 235-587, Rural University Projects, \$17,007 in fiscal year 2004 and \$17,007 in fiscal year 2005 shall be used to support the Washington State Community College day care center.

Of the foregoing appropriation item 235-587, Rural University Projects, \$51,021 in fiscal year 2004 and \$51,021 in fiscal year 2005 shall be used to support the COAD/ILGARD/GOA Appalachian Leadership Initiative.

SECTION 89.11. OHIO RESOURCE CENTER FOR MATHEMATICS, SCIENCE, AND READING

The foregoing appropriation item 235-588, Ohio Resource Center for Mathematics, Science, and Reading, shall be used to support a resource center for mathematics, science, and reading to be located at a state-assisted university for the purpose of identifying best educational practices in primary and secondary schools and establishing methods for communicating them to colleges of education and school districts. The Ohio Resource Center for Mathematics, Science, and Reading shall not make available resources that are inconsistent with the K-12 science standards and policies as adopted by the State Board of Education.

INTERNATIONAL CENTER FOR WATER RESOURCES DEVELOPMENT

The foregoing appropriation item 235-595, International Center for Water Resources Development, shall be used to support the International Center for Water Resources Development at Central State University. The center shall develop methods to improve the management of water resources

for Ohio and for emerging nations.

HAZARDOUS MATERIALS PROGRAM

The foregoing appropriation item 235-596, Hazardous Materials Program, shall be disbursed to Cleveland State University for the operation of a program to certify firefighters for the handling of hazardous materials. Training shall be available to all Ohio firefighters.

Of the foregoing appropriation item 235-596, Hazardous Materials Program, \$130,601 in fiscal year 2004 and \$127,337 in fiscal year 2005 shall be used to support the Center for the Interdisciplinary Study of Education and Leadership in Public Service at Cleveland State University. These funds shall be distributed by the Board of Regents and shall be used by the center targeted toward increasing the role of special populations in public service and not-for-profit organizations. The primary purpose of the center is to study issues in public service and to guide strategies for attracting new communities into public service occupations by bringing together a cadre of researchers, scholars and professionals representing the public administration, social behavioral, and education disciplines.

NATIONAL GUARD SCHOLARSHIP PROGRAM

The Board of Regents shall disburse funds from appropriation item 235-599, National Guard Scholarship Program, at the direction of the Adjutant General.

* PLEDGE OF FEES

Any new pledge of fees, or new agreement for adjustment of fees, made in the 2003-2005 biennium to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this section shall be effective only after approval by the Board of Regents, unless approved in a previous biennium.

HIGHER EDUCATION GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 235-909, Higher Education General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.04 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

SECTION 89.12. SALES AND SERVICES

The Board of Regents is authorized to charge and accept payment for the provision of goods and services generated by the Higher Education

Information System. Such charges shall be reasonably related to the cost of producing the goods and services. No charges may be levied for goods or services that are produced as part of the routine responsibilities or duties of the Board. All revenues received by the Board of Regents shall be deposited into Fund 456, and may be used by the Board of Regents to pay for the costs of producing the goods and services.

OHIO HIGHER EDUCATIONAL FACILITY COMMISSION SUPPORT

The foregoing appropriation item 235-602, Higher Educational Facility Commission Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the chancellor, the Director of Budget and Management shall transfer up to \$20,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

PHYSICIAN LOAN REPAYMENT

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code.

NURSING LOAN PROGRAM

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2004 and \$167,580 in fiscal year 2005 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 89.13. SCIENCE AND TECHNOLOGY COLLABORATION

The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs listed in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

Each of the following appropriations and programs: 195-401, Thomas Edison Program; 898-402, Coal Development Office; 195-422, Third Frontier Action Fund; 898-604, Coal Research and Development Fund; 235-454, Research Challenge; 235-508, Air Force Institute of Technology;

235-510, Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 235-535, Ohio Agricultural Research and Development Center; 235-553, Dayton Area Graduate Studies Institute; 235-554, Computer Science Graduate Education; 235-556, Ohio Academic Resources Network; and 195-435, Biomedical Research and Technology Transfer Trust, shall be reviewed annually by the Third Frontier Commission with respect to its development of complementary relationships within a combined state science and technology investment portfolio and its overall contribution to the state's science and technology strategy, including the adoption of appropriately consistent criteria for: (1) the scientific merit of activities supported by the program; (2) the relevance of the program's activities to commercial opportunities in the private sector; (3) the private sector's involvement in a process that continually evaluates commercial opportunities to use the work supported by the program; and (4) the ability of the program and recipients of grant funding from the program to engage in activities that are collaborative, complementary, and efficient with respect to the expenditure of state funds. All programs listed above shall provide annual reports to the Third Frontier Commission discussing existing, planned, or possible collaborations between programs and recipients of grant funding related to technology, development, commercialization, and supporting Ohio's economic development. The annual review by the Third Frontier Commission shall be a comprehensive review of the entire state science and technology program portfolio rather than a review of individual programs.

REPAYMENT OF RESEARCH FACILITY INVESTMENT FUND MONIES

Notwithstanding any provision of law to the contrary, all repayments of Research Facility Investment Fund loans shall be made to the Bond Service Trust Fund. All Research Facility Investment Fund loan repayments made prior to the effective date of this section shall be transferred by the Director of Budget and Management to the Bond Service Trust Fund within sixty days of the effective date of this section.

Campuses shall make timely repayments of Research Facility Investment Fund loans, according to the schedule established by the Board of Regents. In the case of late payments, the Board of Regents may deduct from an institution's periodic subsidy distribution an amount equal to the amount of the overdue payment for that institution, transfer such amount to the Bond Service Trust Fund, and credit the appropriate institution for the repayment.

VETERANS' PREFERENCES

The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.

SECTION 89.14. STUDY OF CO-LOCATED INSTITUTIONS

The Board of Regents shall review the operation and effectiveness of co-located university branch campuses and technical colleges, with particular attention to improved responsiveness to community needs and improved transfer of coursework. The Board of Regents shall report its findings and recommendations to the General Assembly not later than May 15, 2004.

SECTION 89.15. On the effective date of this section, the Board of Regents shall recognize the conversion of Belmont Technical College from a technical college under Chapter 3358. of the Revised Code to a community college under Chapter 3354. of the Revised Code, and on and after the effective date of this section Belmont Technical College shall be known as Belmont Community College.

SECTION 89.16. The Ohio Board of Regents shall approve the creation of a new joint vocational-community college-university pilot partnership at the Warren County Career Center on a pilot basis in fiscal years 2004 and 2005.

(A) Before the pilot program may be implemented the following conditions shall be met:

(1) The Warren County Career Center's joint vocational school district board of education approves, by resolution, the establishment of a joint vocational-community college-university pilot partnership program within the Career Center.

(2) The Career Center's joint vocational school district board and the local workforce policy board submit to the Ohio Board of Regents a plan for the pilot partnership program similar to the Lorain County Community College's University Center.

(B) The Career Center's joint vocational school district board shall do all of the following in implementing the pilot program:

(1) Act as the host for programs offered by institutions of higher education;

(2) Select programs from existing programs offered by institutions of higher education that may be provided at the Career Center;

(3) Contract with institutions of higher education whereby the institutions may provide course offerings and programs at the Career Center. Under the contracts, the Career Center's joint vocational school district board shall do all of the following:

(a) Provide facilities at the Career Center for classrooms, laboratories, a library, and any other necessary facilities;

(b) Advertise the availability of classes and class schedules to the community;

(c) Coordinate any other administrative functions necessary for the efficient operations of the pilot program.

(C) Any institution of higher education that contracts with the Warren County Career Center shall compensate the Career Center at a reasonable rate for services provided by the Career Center.

(D) The pilot program is ineligible to receive state financial assistance for capital improvements or any other state financial assistance available to institutions of higher education.

SECTION 89.17. Notwithstanding section 3333.05 of the Revised Code, the Ohio Board of Regents shall issue a charter for a new community college, as defined in division (C) of section 3354.01 of the Revised Code, to be operated jointly with the Warren County Career Center. However, the new community college shall not offer courses or request approval of appropriate associate degree programs from the Ohio Board of Regents until after July 1, 2005. Until July 1, 2005, the board of trustees of the new community college is authorized only to carry out activities for the organization of the new community college.

(A) Before the Board of Regents issues a charter to the new community college the following conditions shall be met:

(1) The Warren County Career Center's joint vocational school district board of education approves, by resolution, the establishment of a new community college within the Career Center.

(2) The Warren County Career Center's joint vocational school district board and the local workforce policy board submit to the Ohio Board of Regents a community college plan that conforms to the requirements of section 3354.07 of the Revised Code and the plan is approved by the Board of Regents pursuant to that section.

(B) To administer the new community college, a board of trustees shall be appointed in accordance with section 3354.05 of the Revised Code.

(C) After July 1, 2005, the joint vocational-community college established under this section shall function as:

(1) A provider of career-technical education to secondary school students, subject to all laws applicable to joint vocational school districts under Title XXXIII of the Revised Code;

(2) A provider of arts and sciences and technical instructional programs, not exceeding two years' duration, for postsecondary school students, subject to all laws applicable to community colleges under Chapters 3345. and 3354. of the Revised Code, unless this section provides otherwise; and

(3) A provider of arts and sciences and technical instructional programs for secondary school students participating in the postsecondary enrollment options program under Chapter 3365. of the Revised Code.

(D) The community college district of the new community college is comprised of the territory included within the boundaries of Warren County.

(E) All funds received by the joint vocational-community college to carry out its duties under division (C)(1) of this section shall be kept separate from all funds received by the joint vocational-community college to carry out its duties under divisions (C)(2) and (3) of this section. All revenues from taxes levied by the joint vocational school district shall be kept separate from all revenues of any taxes levied by the community college district.

(F) The joint vocational-community college established under this section is ineligible to receive state financial assistance for capital improvements otherwise available to community colleges under Chapter 3345. or 3354. of the Revised Code. The joint vocational-community college is eligible to receive only classroom facilities assistance under sections 3318.40 to 3318.46 of the Revised Code, but only if the assistance would provide funds for a project to carry out the responsibilities of the Warren County Career Center specified in division (C)(1) of this section. The joint vocational-community college is ineligible for classroom facilities under sections 3318.40 to 3318.46 of the Revised Code for projects that when complete would be used exclusively for community college purposes, as prohibited by division (C) of section 3318.40 of the Revised Code.

(G) By June 30, 2005, the board of education of the joint vocational school district and the board of trustees of the new community college shall submit a report to the Board of Regents on the status of the joint vocational-community college-university pilot partnership authorized by this act and the development of the new community college authorized by this section.

SECTION 89.18. The General Assembly recognizes the pilot tuition restructuring plan of the board of trustees of Miami University for undergraduate students enrolled at the Oxford campus. The purpose of this plan is to make higher education more affordable for moderate income Ohioans, encourage high-achieving Ohio students to stay in Ohio rather than attending colleges in other states, and provide incentives for Ohio students to major in areas crucial to Ohio's priorities and future economic development.

Notwithstanding any limit on in-state undergraduate instructional and general fees imposed by this act, the General Assembly recognizes that the plan provides that all undergraduate students enrolled at the Oxford campus will be charged combined instructional and general fees in an amount equal to the nonresident instructional and general fees and tuition surcharge. For both resident students first enrolling on or after the summer term of 2003 and resident students who enrolled prior to this date, any increases in fees approved thereafter by the board of trustees are subject to any instructional and general fee caps imposed by the General Assembly.

In implementing the plan, all undergraduate students who are residents of Ohio shall receive student financial assistance in the form of an Ohio Resident Scholarship and an Ohio Leader Scholarship.

Miami University established the Ohio Resident Scholarship in recognition of the support provided by this state to Miami University. Each enrolled student who is a resident of Ohio shall receive an Ohio Resident Scholarship. The Ohio Resident Scholarship shall be an award that is equal to, or in excess of, the per capita core funding, which is funding through the state share of instruction and success challenges, the University receives from this state. For fiscal year 2004, the board of trustees established the amount of an Ohio Resident Scholarship at \$5,000. Each year, thereafter, the board of trustees of Miami University shall establish the amount of an Ohio Resident Scholarship for the entering class based upon increases or decreases in state core funding the University receives from this state and shall award such a scholarship to each undergraduate Ohio resident. The University shall guarantee the award will be renewed each year at not less than the initial amount until graduation or for six academic years, whichever occurs first.

Miami University established the Ohio Leader Scholarship to make Miami University more affordable for low- and middle-income Ohio families, to encourage high-achieving students to attend college in Ohio, and to provide incentives for Ohio students to major in areas crucial to Ohio's

economic development. To determine which families qualify as low- and middle-income, the University shall use federal financial aid guidelines but assume that generally families earning less than \$110,000 annually qualify. Each enrolled student who is a resident of Ohio shall receive an Ohio Leader Scholarship. The board of trustees established the amount of an Ohio Leader Scholarship at \$4,750 in fiscal year 2004. Each year thereafter, the board of trustees shall award an Ohio Leader Scholarship to each undergraduate Ohio resident student in an amount based on financial need, academic qualifications, or state priorities criteria. The amount of an award may vary from student to student. The initial award amount shall be guaranteed by the University to be renewed each year, assuming satisfactory academic progress, at an amount that is not less than the initial amount until graduation or six academic years, whichever occurs first. All Ohio Leader Scholarship awards shall use financial need as the first criteria in determining the award amount. For fiscal year 2005, the University shall offer one-third of accepted high-need Ohio residents above average Ohio Leader Scholarship awards, one-third of accepted low-need Ohio residents shall be offered below average Ohio Leader Scholarship awards, and one-third of accepted average-need Ohio residents shall be offered average Ohio Leader Scholarship awards.

For fiscal year 2004, at the Oxford campus of Miami University where current instructional and general fee charges equal \$18,103, the combined Ohio Resident Scholarship and Ohio Leader Scholarship amount totals \$9,750. Based on instructional and general fee charges of \$19,732 at the Oxford campus of Miami University in fiscal year 2005, Miami University projects the combined scholarship award will range from a minimum of \$10,000 for those with the least need who will receive the lowest Ohio Leader Scholarship award to a maximum of \$11,256 for those students with the greatest need who will receive the highest Ohio Leader Scholarship award. These scholarship awards shall augment other University financial assistance. During fiscal years 2004 and 2005, all funds generated by above average Ohio Leader Scholarship awards shall be utilized for the support of Ohio students.

For any resident student who enrolls at the Miami University Oxford campus prior to August 2004, the plan shall have no direct financial impact except for paper changes on invoices so that such a student shall only pay instructional and general fees in an amount equivalent to what the student was charged in the preceding year in addition to any increases in fees approved by the board of trustees.

SECTION 89.19. OIG RECONCILIATION

By the first day of August in each fiscal year, or as soon thereafter as possible, the Ohio Board of Regents shall certify to the Director of Budget and Management the amount necessary to pay any outstanding prior year obligations to higher education institutions for the Ohio Instructional Grant Program. The amounts certified are hereby appropriated to appropriation item 235-618, OIG Reconciliation, from revenues received in the Instructional Grant Reconciliation Fund (Fund 5Y5).

SECTION 89.20. BELMONT TECHNICAL COLLEGE

Not later than one year after the effective date of this section, the Board of Regents shall consider a proposal from Belmont Technical College to convert to a community college.

The Board shall consider the demonstrated need for such an institution, the most effective use of state resources to fund such a conversion, and the regional benefit of such a conversion.

SECTION 90. DRC DEPARTMENT OF REHABILITATION AND CORRECTION**General Revenue Fund**

GRF 501-321	Institutional Operations	\$	848,631,155	\$	861,557,899
GRF 501-403	Prisoner Compensation	\$	8,455,052	\$	8,705,052
GRF 501-405	Halfway House	\$	36,890,139	\$	35,579,419
GRF 501-406	Lease Rental Payments	\$	141,997,000	\$	146,307,900
GRF 501-407	Community Nonresidential Programs	\$	15,161,353	\$	15,352,814
GRF 501-408	Community Misdemeanor Programs	\$	7,942,211	\$	8,041,489
GRF 501-501	Community Residential Programs - CBCF	\$	53,970,123	\$	52,872,875
GRF 502-321	Mental Health Services	\$	66,802,290	\$	68,265,662
GRF 503-321	Parole and Community Operations	\$	77,195,938	\$	78,845,845
GRF 504-321	Administrative Operations	\$	26,533,707	\$	27,420,848
GRF 505-321	Institution Medical Services	\$	118,406,940	\$	120,014,320
GRF 506-321	Institution Education Services	\$	24,335,287	\$	24,747,574
GRF 507-321	Institution Recovery Services	\$	7,018,500	\$	7,124,516
TOTAL GRF General Revenue Fund		\$	1,433,339,695	\$	1,454,836,213

General Services Fund Group

4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$	1,693,129	\$	1,758,177
4D4 501-603	Prisoner Programs	\$	20,537,291	\$	20,967,703
4L4 501-604	Transitional Control	\$	1,348,740	\$	1,593,794

4S5	501-608	Education Services	\$	4,452,754	\$	4,564,072
483	501-605	Property Receipts	\$	383,894	\$	393,491
5H8	501-617	Offender Financial Responsibility	\$	1,335,000	\$	1,374,020
5L6	501-611	Information Technology Services	\$	3,650,712	\$	3,741,980
571	501-606	Training Academy Receipts	\$	73,356	\$	75,190
593	501-618	Laboratory Services	\$	4,707,730	\$	4,825,423
TOTAL GSF General Services Fund Group			\$	38,182,606	\$	39,293,850
Federal Special Revenue Fund Group						
3S1	501-615	Truth-In-Sentencing Grants	\$	24,604,435	\$	25,517,173
323	501-619	Federal Grants	\$	10,759,329	\$	11,300,335
TOTAL FED Federal Special Revenue Fund Group			\$	35,363,764	\$	36,817,508
Intragovernmental Service Fund Group						
148	501-602	Services and Agricultural	\$	95,207,653	\$	95,207,653
200	501-607	Ohio Penal Industries	\$	29,748,175	\$	31,491,879
TOTAL ISF Intragovernmental Service Fund Group			\$	124,955,828	\$	126,699,532
TOTAL ALL BUDGET FUND GROUPS			\$	1,631,841,893	\$	1,657,647,103

COMMUNITY CORRECTIONS TRANSFERS

The Department of Rehabilitation and Correction shall seek the approval of the Controlling Board to transfer in FY 2005 from the unexpended, unobligated GRF appropriations made to the Department for fiscal years 2004 and 2005 at least \$3,250,000 in appropriation authority to appropriation item 501-405, Halfway House, and at least \$3,250,000 in appropriation authority to appropriation item 501-501, Community Residential Programs - CBCF.

ZERO-BASED BUDGETING

The Director of Budget and Management shall prepare a full zero-based budget for the biennium ending June 30, 2007, for the Department of Rehabilitation and Correction. The Director shall offer the Department substantial technical assistance throughout the process of preparing its zero-based budget. The Department shall prepare a full zero-based budget in such manner and according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 501-406, Lease Rental Payments, shall be used for payments to the Ohio Building Authority for the period July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised

Code but limited to the aggregate amount of \$288,304,900. This appropriation amount is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

PRISONER COMPENSATION

Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to the Services and Agricultural Fund (Fund 148) for the purposes of paying prisoner compensation.

CASH TRANSFER TO THE OFFENDER FINANCIAL RESPONSIBILITY FUND

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer the cash balance in the Adult Parole Authority Probation Services Fund (Fund 5A3) to the Offender Financial Responsibility Fund (Fund 5H8).

SECTION 91. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF 415-100	Personal Services	\$	8,677,911	\$	8,851,468
GRF 415-402	Independent Living Council	\$	12,040	\$	12,280
GRF 415-403	Mental Health Services	\$	717,221	\$	717,221
GRF 415-404	MR/DD Services	\$	1,260,816	\$	1,260,816
GRF 415-405	Vocational Rehabilitation/Job and Family Services	\$	536,912	\$	536,912
GRF 415-406	Assistive Technology	\$	47,531	\$	47,531
GRF 415-431	Office for People with Brain Injury	\$	222,364	\$	226,012
GRF 415-506	Services for People with Disabilities	\$	11,830,306	\$	12,185,215
GRF 415-508	Services for the Deaf	\$	50,000	\$	50,000
GRF 415-509	Services for the Elderly	\$	359,377	\$	359,377
GRF 415-520	Independent Living Services	\$	50,000	\$	50,000
TOTAL GRF General Revenue Fund		\$	23,764,478	\$	24,296,832

General Services Fund Group

4W5 415-606	Administrative Expenses	\$	18,016,543	\$	18,557,040
467 415-609	Business Enterprise Operating Expenses	\$	1,584,545	\$	1,632,082
TOTAL GSF General Services Fund Group		\$	19,601,088	\$	20,189,122

Federal Special Revenue Fund Group

3L1 415-601	Social Security Personal Care Assistance	\$	3,984,486	\$	3,988,032
3L1 415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488
3L1 415-607	Social Security Administration Cost	\$	174,119	\$	175,860

Am. Sub. H. B. No. 95

2074

3L1	415-608	Social Security Special Programs/Assistance	\$	6,941,158	\$	6,941,158
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,338,324	\$	1,338,324
3L1	415-614	Social Security Independent Living	\$	385,917	\$	385,917
3L4	415-612	Federal-Independent Living Centers or Services	\$	663,687	\$	663,687
3L4	415-615	Federal - Supported Employment	\$	1,714,546	\$	1,714,546
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,582,484	\$	1,582,484
317	415-620	Disability Determination	\$	73,120,329	\$	76,776,343
379	415-616	Federal-Vocational Rehabilitation	\$	117,955,833	\$	125,520,457
TOTAL FED Federal Special Revenue Fund Group			\$	208,961,371	\$	220,187,296
State Special Revenue Fund Group						
4L1	415-619	Services for Rehabilitation	\$	3,623,845	\$	3,176,070
468	415-618	Third Party Funding	\$	1,692,991	\$	2,392,991
TOTAL SSR State Special Revenue Fund Group			\$	5,316,836	\$	5,569,061
TOTAL ALL BUDGET FUND GROUPS			\$	257,643,773	\$	270,242,311

MR/DD SERVICES

The foregoing appropriation item 415-404, MR/DD Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Mental Retardation and Developmental Disabilities. The Rehabilitation Services Commission shall report to the Department of Mental Retardation and Developmental Disabilities, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES

The foregoing appropriation item 415-405, Vocational Rehabilitation/Job and Family Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Department of Job and Family Services. The Rehabilitation Services Commission shall report to the Department of Job and Family Services, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

ASSISTIVE TECHNOLOGY

The foregoing appropriation item 415-406, Assistive Technology, shall be provided to Assistive Technology of Ohio and shall be used only to provide grants under that program. No amount of the appropriation may be

used for administrative costs.

OFFICE FOR PEOPLE WITH BRAIN INJURY

Of the foregoing appropriation item 415-431, Office for People with Brain Injury, \$50,000 in each fiscal year shall be used for the state match for a federal grant awarded through the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to \$50,000 in fiscal year 2004 and up to \$50,000 in fiscal year 2005 shall be provided to the Brain Injury Trust Fund. The remaining appropriation in this item shall be used to plan and coordinate head-injury-related services provided by state agencies and other government or private entities, to assess the needs for such services, and to set priorities in this area.

SERVICES FOR THE ELDERLY

The foregoing appropriation item 415-509, Services for the Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.

SOCIAL SECURITY REIMBURSEMENT FUNDS

Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment, shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:

(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;

(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments;

(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program;

(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities, who are Social Security beneficiaries, to achieve competitive employment. This item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87.

(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to achieve a noncompetitive employment

goal.

ADMINISTRATIVE EXPENSES

The foregoing appropriation item 415-606, Administrative Expenses, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

INDEPENDENT LIVING COUNCIL

The foregoing appropriation item 415-402, Independent Living Council, shall be used to fund the operations of the State Independent Living Council.

MENTAL HEALTH SERVICES

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health.

The Department of Mental Health shall receive a quarterly report from the Rehabilitation Services Commission stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked.

SERVICES FOR THE DEAF

The foregoing appropriation item 415-508, Services for the Deaf, shall be used to supplement Social Security reimbursement funds used to provide grants to community centers for the deaf. These funds shall not be used in lieu of Social Security reimbursement funds.

INDEPENDENT LIVING SERVICES

The foregoing appropriation items 415-520, Independent Living Services, and 415-612, Federal-Independent Living Centers or Services, shall be used to support state independent living centers or independent living services pursuant to Title VII of the Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C. 796d.

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS

The foregoing appropriation item 415-617, Independent Living/Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs, including, but not limited to, Projects with Industry, Training Grants, and Brain Injury Grants.

PILOT PROGRAM FOR VOCATIONAL REHABILITATION

During fiscal years 2004 and 2005, the Rehabilitation Services Commission may conduct a pilot program to provide vocational rehabilitation and related services to entities, employers, or individuals that

are not eligible for state or federally supported services through the commission. The commission shall propose fees to be collected from the entities, employers, or individuals served by the pilot program for the approval of the Controlling Board to support the costs for vocational rehabilitation and related services provided under the pilot program. Fee revenues collected under the program shall be credited to Fund 468 (Third Party Funding). Prior to the commencement of services through the pilot program, the Rehabilitation Services Commission shall develop a program plan to be submitted to the Controlling Board. Any plan revisions or updates shall be reported to the Controlling Board. During the implementation of the pilot program, the Rehabilitation Services Commission shall investigate and determine the possibility of utilizing this source of revenue to match federal funds. The Rehabilitation Services Commission shall evaluate the progress of the pilot program and issue a report of its findings to the Governor by December 15, 2005. The report shall include a recommendation to either continue or discontinue the pilot program in the next biennium.

SECTION 92. RCB RESPIRATORY CARE BOARD

General Services Fund Group

4K9 872-609	Operating Expenses	\$	318,499	\$	315,481
TOTAL GSF General Services					
Fund Group		\$	318,499	\$	315,481
TOTAL ALL BUDGET FUND GROUPS					
		\$	318,499	\$	315,481

SECTION 93. REVENUE DISTRIBUTION FUNDS

Volunteer Firefighters' Dependents Fund

085 800-900	Volunteer Firefighters'	\$	200,000	\$	200,000
	Dependents Fund				

TOTAL 085 Volunteer Firefighters'					
Dependents Fund		\$	200,000	\$	200,000

Agency Fund Group

062 110-900	Resort Area Excise Tax	\$	500,000	\$	500,000
063 110-900	Permissive Tax Distribution	\$	1,397,512,400	\$	1,439,437,700
067 110-900	School District Income Tax	\$	154,836,700	\$	161,030,200

Fund					
4P8 001-698	Cash Management	\$	2,500,000	\$	2,500,000
Improvement Fund					

608 001-699	Investment Earnings	\$	174,300,000	\$	181,300,000

TOTAL AGY Agency Fund Group		\$	1,729,649,100	\$	1,784,767,900

Holding Account Redistribution

R45 110-617	International Fuel Tax	\$	36,400,000	\$	37,200,000
Distribution					

TOTAL R45 Holding Account Redistribution		\$	36,400,000	\$	37,200,000
Fund					

Revenue Distribution Fund Group

Am. Sub. H. B. No. 95

2078

049	038-900	Indigent Drivers Alcohol Treatment	\$	1,850,000	\$	1,850,000
050	762-900	International Registration Plan Distribution	\$	60,000,000	\$	60,000,000
051	762-901	Auto Registration Distribution	\$	475,000,000	\$	486,875,000
054	110-900	Local Government Property Tax Replacement	\$	75,000,000	\$	75,000,000
060	110-900	Gasoline Excise Tax Fund	\$	113,344,700	\$	115,611,600
064	110-900	Local Government Revenue Assistance	\$	98,500,000	\$	98,500,000
065	110-900	Library/Local Government Support Fund	\$	475,000,000	\$	475,000,000
066	800-900	Undivided Liquor Permit Fund	\$	13,500,000	\$	13,500,000
068	110-900	State/Local Government Highway Distribution Fund	\$	227,607,000	\$	232,159,100
069	110-900	Local Government Fund	\$	705,000,000	\$	705,000,000
082	110-900	Horse Racing Tax	\$	130,000	\$	130,000
083	700-900	Ohio Fairs Fund	\$	3,150,000	\$	3,150,000
TOTAL RDF Revenue Distribution Fund Group			\$	2,248,081,700	\$	2,266,775,700
TOTAL ALL BUDGET FUND GROUPS			\$	4,014,330,800	\$	4,088,943,600

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are to be used for the purpose of administering and distributing the designated revenue distributions fund according to the Revised Code. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 94. SAN BOARD OF SANITARIAN REGISTRATION**General Services Fund Group**

4K9	893-609	Operating Expenses	\$	124,892	\$	125,612
TOTAL GSF General Services Fund Group			\$	124,892	\$	125,612
TOTAL ALL BUDGET FUND GROUPS			\$	124,892	\$	125,612

SECTION 95. OSB OHIO STATE SCHOOL FOR THE BLIND**General Revenue Fund**

GRF	226-100	Personal Services	\$	6,287,483	\$	6,456,616
GRF	226-200	Maintenance	\$	685,256	\$	685,256
GRF	226-300	Equipment	\$	121,355	\$	121,355
TOTAL GRF General Revenue Fund			\$	7,094,094	\$	7,263,227

General Services Fund Group

4H8	226-602	Education Reform Grants	\$	61,476	\$	61,476
TOTAL GSF General Services Fund Group			\$	61,476	\$	61,476

Federal Special Revenue Fund Group

3P5	226-643	Medicaid Professional Services Reimbursement	\$	143,600	\$	143,600

Am. Sub. H. B. No. 95

2079

310 226-626	Coordinating Unit	\$	1,390,000	\$	1,384,000
TOTAL FED Federal Special					
	Revenue Fund Group	\$	1,533,600	\$	1,527,600
State Special Revenue Fund Group					
4M5 226-601	Work Study & Technology Investments	\$	42,919	\$	42,919
TOTAL SSR State Special Revenue					
	Fund Group	\$	42,919	\$	42,919
TOTAL ALL BUDGET FUND GROUPS			8,732,089		8,895,222

SECTION 96. OSD OHIO STATE SCHOOL FOR THE DEAF

General Revenue Fund

GRF 221-100	Personal Services	\$	8,071,660	\$	8,391,704
GRF 221-200	Maintenance	\$	1,012,561	\$	1,032,813
GRF 221-300	Equipment	\$	269,377	\$	269,377
TOTAL GRF General Revenue Fund		\$	9,353,598	\$	9,693,894

General Services Fund Group

4M1 221-602	Education Reform Grants	\$	70,701	\$	70,701
TOTAL GSF General Services					
	Fund Group	\$	70,701	\$	70,701

Federal Special Revenue Fund Group

3R0 221-684	Medicaid Professional Services Reimbursement	\$	111,377	\$	111,377
311 221-625	Coordinating Unit	\$	949,899	\$	974,649
3Y1 221-686	Early Childhood Grant	\$	248,235	\$	262,275
TOTAL FED Federal Special					
	Revenue Fund Group	\$	1,309,511	\$	1,348,301

State Special Revenue Fund Group

4M0 221-601	Educational Program Expenses	\$	33,188	\$	33,188
5H6 221-609	Even Start Fees & Gifts	\$	98,500	\$	98,500
TOTAL SSR State Special Revenue					
	Fund Group	\$	131,688	\$	131,688
TOTAL ALL BUDGET FUND GROUPS			10,865,498		11,244,584

SECTION 97. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund

GRF 230-428	Lease Rental Payments	\$	31,776,500	\$	31,704,700
GRF 230-908	Common Schools General Obligation Debt Service	\$	106,322,300	\$	145,989,300

TOTAL GRF General Revenue Fund		\$	138,098,800	\$	177,694,000

Federal Special Revenue Fund Group

3X9 230-601	Federal School Facilities Grant	\$	28,214,058	\$	28,214,058
TOTAL FED Federal Special Revenue Fund		\$	28,214,058	\$	28,214,058
	Group				

State Special Revenue Fund Group

5E3 230-644	Operating Expenses	\$	7,009,766	\$	7,009,766

TOTAL SSR State Special Revenue			
Fund Group	\$	7,009,766	\$ 7,009,766
TOTAL ALL BUDGET FUND GROUPS	\$	173,322,624	\$ 212,917,824

SECTION 97.01. LEASE RENTAL PAYMENTS

The foregoing appropriation item 230-428, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2003, to June 30, 2005, by the School Facilities Commission pursuant to leases and agreements made under section 3318.26 of the Revised Code, but limited to the aggregate amount of \$63,481,200. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to Chapter 3318. of the Revised Code.

COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 230-908, Common Schools General Obligation Debt Service, shall be used to pay all debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.03 of the Revised Code during the period from July 1, 2003, to June 30, 2005. The Office of the Sinking Fund or the Director of Budget and Management shall effectuate the required payments by an intrastate transfer voucher.

OPERATING EXPENSES

The foregoing appropriation item 230-644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3318. of the Revised Code.

Within ten days after the effective date of this section, or as soon as possible thereafter, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3).

By July 10, 2004, the Executive Director of the Ohio School Facilities Commission shall certify to the Director of Budget and Management the amount of cash from interest earnings to be transferred from the School Building Assistance Fund (Fund 032) or the Public School Building Fund (Fund 021) to the Ohio School Facilities Commission Fund (Fund 5E3). The amount transferred may not exceed investment earnings credited to the School Building Assistance Fund (Fund 032) less any amount required to be

paid for federal arbitrage rebate purposes.

SCHOOL FACILITIES ENCUMBRANCES AND
REAPPROPRIATION

At the request of the Executive Director of the Ohio School Facilities Commission, the Director of Budget and Management may cancel encumbrances for school district projects from a previous biennium if the district has not raised its local share of project costs within one year of receiving Controlling Board approval in accordance with section 3318.05 of the Revised Code. The Executive Director of the Ohio School Facilities Commission shall certify the amounts of these canceled encumbrances to the Director of Budget and Management on a quarterly basis. The amounts of the canceled encumbrances are appropriated.

SECTION 97.02. COMMUNITY SCHOOL CLASSROOM FACILITIES
LOAN GUARANTEE

The unencumbered and unallotted balances as of June 30, 2003, in appropriation item 230-602, Community School Loan Guarantee, are hereby reappropriated in fiscal year 2004 to support loan guarantees to community schools under section 3318.50 of the Revised Code. The unencumbered and unallotted balances of the appropriation at the end of fiscal year 2004 are hereby reappropriated in fiscal year 2005 to support loan guarantees to community schools under section 3318.50 of the Revised Code.

SECTION 97.03. EXTREME ENVIRONMENTAL CONTAMINATION
OF SCHOOL FACILITIES

Notwithstanding any other provision of law to the contrary, the School Facilities Commission may provide assistance under the Exceptional Needs School Facilities Program established in section 3318.37 of the Revised Code to any school district, and not exclusively to a school district in the lowest fifty per cent of adjusted valuation per pupil on the current ranking of school districts established pursuant to section 3317.02 of the Revised Code, for the purpose of the relocation or replacement of school facilities required as a result of extreme environmental contamination.

The School Facilities Commission shall contract with an independent environmental consultant to conduct a study and to report to the commission as to the seriousness of the environmental contamination, whether the contamination violates applicable state and federal standards, and whether the facilities are no longer suitable for use as school facilities. The commission then shall make a determination regarding funding for the

relocation or replacement of the school facilities. If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the school facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

SECTION 97.04. (A) The Ohio School Facilities Commission may commit up to thirty-five million dollars to the Canton City School District for construction of a facility described in this section, in lieu of a high school that would otherwise be authorized under Chapter 3318. of the Revised Code. The commission shall not commit funds under this section unless all of the following conditions are met:

(1) The district has entered into a cooperative agreement with a state-assisted technical college.

(2) The district has received an irrevocable commitment of additional funding from nonpublic sources.

(3) The facility is intended to serve both secondary and postsecondary instructional purposes.

(B) The commission shall enter into an agreement with the district for the construction of the facility authorized under this section that is separate from and in addition to the agreement required for the district's participation in the Classroom Facilities Assistance Program under section 3318.08 of the Revised Code. Notwithstanding that section and sections 3318.03, 3318.04, and 3318.083 of the Revised Code, the additional agreement shall provide, but not be limited to, the following:

(1) The commission shall not have any oversight responsibilities over the construction of the facility.

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the commission.

(3) The commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code.

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section.

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section.

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code.

SECTION 98. NET OHIO SCHOOLNET COMMISSION

General Revenue Fund

GRF 228-404	Operating Expenses	\$	5,961,208	\$	5,961,208
GRF 228-406	Technical and Instructional Professional Development	\$	7,691,831	\$	7,691,831
GRF 228-539	Education Technology	\$	6,989,315	\$	6,989,315
Total GRF General Revenue Fund		\$	20,642,354	\$	20,642,354

General Services Fund Group

5D4 228-640	Conference/Special Purpose Expenses	\$	1,350,000	\$	1,350,000
TOTAL GSF General Services Fund Group		\$	1,350,000	\$	1,350,000

Federal Special Revenue Fund Group

3X8 228-604	Individuals With Disabilities Education Act	\$	1,500,000	\$	1,500,000
TOTAL FED Federal Special Revenue Fund Group		\$	1,500,000	\$	1,500,000

State Special Revenue Fund Group

4W9 228-630	Ohio SchoolNet Telecommunity Fund	\$	400,000	\$	400,000
4X1 228-634	Distance Learning	\$	1,750,000	\$	1,750,000
5T3 228-605	Gates Foundation Grants	\$	1,194,908	\$	1,194,908
TOTAL SSR State Special Revenue Fund Group		\$	3,344,908	\$	3,344,908
TOTAL ALL BUDGET FUND GROUPS			26,837,262		26,837,262

SECTION 98.01. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL DEVELOPMENT

The foregoing appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission to make grants or provide services to qualifying schools, including the State School for the Blind and the Ohio School for the Deaf, for the provision of hardware, software, telecommunications services, and staff development to support educational uses of technology in the classroom.

The Ohio SchoolNet Commission shall consider the professional development needs associated with the OhioReads Program when making funding allocations and program decisions.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$1,260,000 in each fiscal year shall be allocated equally among the 12 Ohio Educational Television Stations and, used with the advice of the Ohio SchoolNet Commission, for the production of interactive instructional programming series and teleconferences to support the SchoolNet Commission. The programming shall be targeted to the needs of the poorest two hundred school districts as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$818,322 in each fiscal year shall be used by the INFOhio Network, with the advice of the Ohio SchoolNet Commission, to support the provision of electronic resources to all public schools with preference given to elementary schools. Consideration shall be given by the Commission to coordinating the allocation of these moneys with the efforts of OhioLINK and the Ohio Public Information Network.

Of the foregoing appropriation item 228-406, Technical and Instructional Professional Development, \$300,000 in each fiscal year shall be used by the JASON project, with the advice of the Ohio SchoolNet Commission, to provide statewide access and a 75 per cent subsidy for statewide licensing of JASON content for 90,000 middle school students statewide, and professional development for teachers participating in the program.

The remaining appropriation allocated in appropriation item 228-406, Technical and Instructional Professional Development, shall be used by the Ohio SchoolNet Commission for professional development for teachers and administrators for the use of educational technology. The commission may make grants to provide technical assistance and professional development on the use of educational technology to school districts.

Eligible recipients of grants include regional training centers, county offices of education, data collection sites, instructional technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. Services provided through these grants may include use of private entities subcontracting through the grant recipient.

Grants shall be made to entities on a contractual basis with the Ohio SchoolNet Commission. Contracts shall include provisions that demonstrate

how services will benefit technology use in the schools, and in particular will support Ohio SchoolNet efforts to support technology in the schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time.

Grants shall be awarded in a manner consistent with the goals of Ohio SchoolNet. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers.

Application for grants from this appropriation in appropriation item 228-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by the Ohio SchoolNet Commission. Funds allocated through these grants may be combined with funds received through other state or federal grants for technology so long as the school district's technology plan specifies the use of these funds.

EDUCATION TECHNOLOGY

The foregoing appropriation item 228-539, Education Technology, shall be used to provide funding to suppliers of information services to school districts for the provision of hardware, software, and staff development in support of educational uses of technology in the classroom as prescribed by the State Plan for Technology pursuant to section 3301.07 of the Revised Code, and to support assistive technology for children and youth with disabilities.

Of the foregoing appropriation item 228-539, Education Technology, up to \$1,946,000 in each fiscal year shall be used by the Ohio SchoolNet Commission to link all public K-12 classrooms to each other and the Internet, and to provide access to voice, video, and data educational resources for students and teachers through the OneNet Ohio Program.

Up to \$4,403,778 in each fiscal year shall be used by the Ohio SchoolNet Commission to contract with instructional television, and \$639,537 in each fiscal year shall be used by the commission to contract with education media centers to provide Ohio schools with instructional resources and services.

Resources may include, but not be limited to, the following: pre-recorded video materials (including videotape, laser discs, and CD-ROM discs); computer software for student use or student access to electronic communication, databases, spreadsheet, and word processing capability; live student courses or courses delivered electronically; automated media systems; and instructional and professional development

materials for teachers. The commission shall cooperate with education technology agencies in the acquisition, development, and delivery of such educational resources to ensure high-quality and educational soundness at the lowest possible cost. Delivery of such resources may utilize a variety of technologies, with preference given to a high-speed integrated information network that can transport video, voice, data, and graphics simultaneously.

Services shall include presentations and technical assistance that will help students and teachers integrate educational materials that support curriculum objectives, match specific learning styles, and are appropriate for individual interests and ability levels.

Such instructional resources and services shall be made available for purchase by chartered nonpublic schools or by public school districts for the benefit of pupils attending chartered nonpublic schools.

TELECOMMUNITY

The foregoing appropriation item 228-630, Ohio SchoolNet Telecommunity Fund, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" through interactive video technologies in the school district. Per agreements with eight Ohio local telephone companies: ALLTEL Ohio, CENTURY Telephone of Ohio, Chillicothe Telephone Company, Cincinnati Bell Telephone Company, Orwell Telephone Company, Sprint North Central Telephone, VERIZON, and Western Reserve Telephone Company, school districts are eligible for funds if they are within one of the listed telephone company service areas. Funds to administer the program shall be expended by the commission up to the amount specified in agreements with the listed telephone companies.

Within 30 days after the effective date of this section, the Director of Budget and Management shall transfer to Fund 4W9 in the State Special Revenue Fund Group any investment earnings from moneys paid to the Ohio SchoolNet Commission by any telephone company as part of any settlement agreement between the listed companies and the Public Utilities Commission in fiscal years 1996 and beyond.

DISTANCE LEARNING

Appropriation item 228-634, Distance Learning, shall be distributed by the Ohio SchoolNet Commission on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the commission up to the amount specified in the agreement with Ameritech.

Within thirty days after the effective date of this section, the Director of Budget and Management shall transfer to fund 4X1 in the State Special Revenue Fund Group any investment earnings from moneys paid to the office or to the SchoolNet Commission by any telephone company as part of a settlement agreement between the company and the Public Utilities Commission in fiscal year 1995.

GATES FOUNDATION GRANTS

The foregoing appropriation item 228-605, Gates Foundation Grants, shall be used by the Ohio SchoolNet Commission to provide professional development to school district principals, superintendents, and other administrative staff for the use of education technology. The appropriation is made possible through a grant from the Bill and Melinda Gates foundation.

SECTION 99. SOS SECRETARY OF STATE

General Revenue Fund

GRF 050-321	Operating Expenses	\$	2,750,000	\$	2,750,000
GRF 050-403	Election Statistics	\$	110,570	\$	110,570
GRF 050-407	Pollworkers Training	\$	295,742	\$	295,742
GRF 050-409	Litigation Expenditures	\$	4,949	\$	4,949
TOTAL GRF General Revenue Fund		\$	3,161,261	\$	3,161,261

General Services Fund Group

4S8 050-610	Board of Voting Machine Examiners	\$	7,200	\$	7,200
412 050-609	Notary Commission	\$	178,124	\$	185,249
413 050-601	Information Systems	\$	163,418	\$	169,955
414 050-602	Citizen Education Fund	\$	72,800	\$	75,712
TOTAL General Services Fund Group		\$	421,542	\$	438,116

Federal Special Revenue Fund Group

3X4 050-612	Ohio Cntr/Law Related Educ Grant	\$	41,000	\$	41,000
TOTAL FED Federal Special Revenue Fund Group		\$	41,000	\$	41,000

State Special Revenue Fund Group

5N9 050-607	Technology Improvements	\$	124,582	\$	129,565
599 050-603	Business Services Operating Expenses	\$	13,889,462	\$	14,241,966
TOTAL SSR State Special Revenue Fund Group		\$	14,014,044	\$	14,371,531

Holding Account Redistribution Fund Group

R01 050-605	Uniform Commercial Code Refunds	\$	65,000	\$	65,000
R02 050-606	Corporate/Business Filing Refunds	\$	100,000	\$	100,000
TOTAL 090 Holding Account Redistribution Fund Group		\$	165,000	\$	165,000
TOTAL ALL BUDGET FUND GROUPS		\$	17,802,847	\$	18,176,908

BOARD OF VOTING MACHINE EXAMINERS

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are appropriated.

HOLDING ACCOUNT REDISTRIBUTION GROUP

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 100. SEN THE OHIO SENATE**General Revenue Fund**

GRF 020-321	Operating Expenses	\$	10,887,655	\$	11,432,037
TOTAL GRF General Revenue Fund		\$	10,887,655	\$	11,432,037

General Services Fund Group

102 020-602	Senate Reimbursement	\$	422,881	\$	444,025
409 020-601	Miscellaneous Sales	\$	32,529	\$	34,155
TOTAL GSF General Services Fund Group		\$	455,410	\$	478,180
TOTAL ALL BUDGET FUND GROUPS		\$	11,343,065	\$	11,910,217

SECTION 101. CSF COMMISSIONERS OF THE SINKING FUND**Debt Service Fund Group**

071 155-901	Highway Obligations Bond Retirement Fund	\$	35,536,300	\$	10,450,000
072 155-902	Highway Capital Improvements Bond Retirement Fund	\$	153,559,600	\$	173,238,200
073 155-903	Natural Resources Bond Retirement	\$	23,808,300	\$	26,914,300
074 155-904	Conservation Projects Bond Service Fund	\$	9,743,500	\$	11,235,700
076 155-906	Coal Research and Development Bond Retirement Fund	\$	7,231,200	\$	9,185,100
077 155-907	State Capital Improvements Bond Retirement Fund	\$	156,974,400	\$	152,069,700
078 155-908	Common Schools Bond Retirement Fund	\$	106,322,300	\$	145,989,300

079	155-909	Higher Education Bond Retirement Fund	\$	97,668,000	\$	130,967,600
		TOTAL DSF Debt Service Fund Group	\$	590,843,600	\$	660,049,900
		TOTAL ALL BUDGET FUND GROUPS	\$	590,843,600	\$	660,049,900

ADDITIONAL APPROPRIATIONS

Appropriation items in this section are for the purpose of paying debt service and financing costs on bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 102. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY**General Services Fund Group**

4K9	886-609	Operating Expenses	\$	390,966	\$	403,554
		TOTAL GSF General Services Fund Group	\$	390,966	\$	403,554
		TOTAL ALL BUDGET FUND GROUPS	\$	390,966	\$	403,554

SECTION 103. BTA BOARD OF TAX APPEALS**General Revenue Fund**

GRF	116-321	Operating Expenses	\$	2,171,760	\$	2,171,760
		TOTAL GRF General Revenue Fund	\$	2,171,760	\$	2,171,760
		TOTAL ALL BUDGET FUND GROUPS	\$	2,171,760	\$	2,171,760

SECTION 104. TAX DEPARTMENT OF TAXATION**General Revenue Fund**

GRF	110-321	Operating Expenses	\$	92,501,007	\$	94,267,788
GRF	110-412	Child Support Administration	\$	74,215	\$	74,215
GRF	110-901	Property Tax Allocation - Taxation	\$	434,650,000	\$	462,640,000
GRF	110-906	Tangible Tax Exemption - Taxation	\$	26,590,000	\$	25,090,000
		TOTAL GRF General Revenue Fund	\$	553,815,222	\$	582,072,003

Agency Fund Group

095	110-901	Municipal Income Tax	\$	12,000,000	\$	12,000,000
425	110-635	Tax Refunds	\$	1,296,756,200	\$	1,337,119,600
		TOTAL AGY Agency Fund Group	\$	1,308,756,200	\$	1,349,119,600

General Services Fund Group

433	110-602	Tape File Account	\$	96,165	\$	96,165
		TOTAL GSF General Services Fund Group	\$	96,165	\$	96,165

Federal Special Revenue Fund Group

3J6	110-601	Motor Fuel Compliance	\$	33,300	\$	25,000
		TOTAL FED Federal Special Revenue Fund Group	\$	33,300	\$	25,000

State Special Revenue Fund Group

4C6	110-616	International Registration Plan	\$	706,855	\$	706,855
4R6	110-610	Tire Tax Administration	\$	65,000	\$	65,000
435	110-607	Local Tax Administration	\$	13,600,000	\$	13,700,000
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000
437	110-606	Litter Tax and Natural Resource Tax Administration	\$	625,232	\$	625,232
438	110-609	School District Income Tax	\$	2,599,999	\$	2,599,999
5N5	110-605	Municipal Income Tax Administration	\$	650,000	\$	650,000
5N6	110-618	Kilowatt Hour Tax Administration	\$	85,000	\$	85,000
5V7	110-622	Motor Fuel Tax Administration	\$	3,734,036	\$	3,833,091
5V8	110-623	Property Tax Administration	\$	11,569,719	\$	11,938,362
5W4	110-625	Centralized Tax Filing and Payment	\$	3,000,000	\$	3,000,000
639	110-614	Cigarette Tax Enforcement	\$	168,925	\$	168,925
642	110-613	Ohio Political Party Distributions	\$	600,000	\$	600,000
688	110-615	Local Excise Tax Administration	\$	300,000	\$	300,000
TOTAL SSR State Special Revenue Fund Group			\$	39,054,766	\$	39,622,464

Holding Account Redistribution Fund Group

R10	110-611	Tax Distributions	\$	50,000	\$	50,000
R11	110-612	Miscellaneous Income Tax Receipts	\$	50,000	\$	50,000
TOTAL 090 Holding Account Redistribution Fund Group			\$	100,000	\$	100,000
TOTAL ALL BUDGET FUND GROUPS			\$	1,901,855,653	\$	1,971,035,232

TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT

Of the foregoing appropriation item 110-607, Local Tax Administration, the Tax Commissioner may disburse funds, if available, for the purposes of paying travel expenses incurred by members of Ohio's delegation to the Streamlined Sales Tax Project, as appointed under section 5740.02 of the Revised Code. Any travel expense reimbursement paid for by the Department of Taxation shall be done in accordance with applicable state laws and guidelines.

LITTER CONTROL TAX ADMINISTRATION FUND

Notwithstanding section 5733.12 of the Revised Code, during the period from July 1, 2003, to June 30, 2004, the amount of \$625,232, and during the period from July 1, 2004, to June 30, 2005, the amount of \$625,232, received by the Tax Commissioner under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437).

CENTRALIZED TAX FILING AND PAYMENT FUND

The Director of Budget and Management pursuant to a plan submitted by the Tax Commissioner, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the General Revenue Fund to the credit of the Centralized Tax Filing and Payment Fund. Such transfers of cash shall not exceed \$3,000,000 in any fiscal year.

INTERNATIONAL REGISTRATION PLAN AUDIT

The foregoing appropriation item 110-616, International Registration Plan, shall be used pursuant to section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX EXEMPTION

The foregoing appropriation item 110-901, Property Tax Allocation - Taxation, is appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts of the state, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

The foregoing appropriation item 110-906, Tangible Tax Exemption - Taxation, is appropriated to pay for the state's costs incurred due to the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. The Tax Commissioner shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer pursuant to division (G) of section 321.24 of the Revised Code for all local taxing districts located in the county except for school districts, notwithstanding the provision in section 321.24 of the Revised Code which provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county including school districts. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Tax Commissioner among the appropriate local taxing districts except for school districts.

Upon receipt of these amounts, each local taxing district shall distribute

the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 110-901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, for the \$10,000 tangible personal property tax exemption payments, which are determined to be necessary for these purposes, are hereby appropriated.

MUNICIPAL INCOME TAX

The foregoing appropriation item 110-901, Municipal Income Tax, shall be used to make payments to municipal corporations as provided in section 5745.05 of the Revised Code. If it is determined that additional appropriations are necessary to make such payments, such amounts are hereby appropriated.

TAX REFUNDS

The foregoing appropriation item 110-635, Tax Refunds, shall be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary, such amounts are appropriated.

SECTION 105. DOT DEPARTMENT OF TRANSPORTATION

Transportation Modes

General Revenue Fund

GRF 775-451	Public Transportation - State	\$	18,875,595	\$	19,525,595
GRF 776-465	Ohio Rail Development Commission	\$	3,116,889	\$	2,936,056
GRF 776-466	Railroad Crossing/Grade Separation	\$	500,000	\$	840,000
GRF 777-471	Airport Improvements - State	\$	1,908,495	\$	1,908,495
GRF 777-473	Rickenbacker Lease Payments - State	\$	591,600	\$	591,500
TOTAL GRF General Revenue Fund		\$	24,992,579	\$	25,801,646

Federal Special Revenue Fund Group

3B9 776-662	Rail Transportation - Federal	\$	50,000	\$	50,000
TOTAL FSR Federal Special Revenue Fund Group		\$	50,000	\$	50,000

State Special Revenue Fund Group

4N4 776-663	Panhandle Lease Reserve Payments	\$	770,000	\$	770,000
4N4 776-664	Rail Transportation - Other	\$	1,919,500	\$	2,111,500
5W8 773-605	Roadside Rest Area		250,000		250,000

5W9 777-615	Improvement County Airport Maintenance Assistance	570,000	570,000
TOTAL SSR State Special Revenue			
Fund Group		\$ 3,509,500	\$ 3,701,500
TOTAL ALL BUDGET FUND GROUPS		\$ 28,552,079	\$ 29,553,146

ELDERLY AND DISABLED FARE ASSISTANCE

Of the foregoing appropriation item 775-451, Public Transportation - State, up to \$4,012,780 in fiscal year 2004 and \$5,015,975 in fiscal year 2005 may be used to make grants to county transit boards, regional transit authorities, regional transit commissions, counties, municipal corporations, and private nonprofit organizations that operate or will operate public transportation systems, for the purpose of reducing the transit fares of elderly or disabled persons. Pursuant to division (B) of section 5501.07 of the Revised Code, the Director of Transportation shall establish criteria for the distribution of these grants.

AVIATION LEASE PAYMENTS

The foregoing appropriation item 777-473, Rickenbacker Lease Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in appropriation item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified may be transferred by the Director of Budget and Management to appropriation item 777-471, Airport Improvements - State.

SECTION 106. TOS TREASURER OF STATE**General Revenue Fund**

GRF 090-321	Operating Expenses	\$ 9,329,082	\$ 9,619,082
GRF 090-401	Office of the Sinking Fund	\$ 554,868	\$ 554,868
GRF 090-402	Continuing Education	\$ 463,585	\$ 463,585
GRF 090-524	Police and Fire Disability Pension Fund	\$ 35,000	\$ 30,000
GRF 090-534	Police & Fire Ad Hoc Cost of Living	\$ 225,000	\$ 230,000
GRF 090-544	Police and Fire State Contribution	\$ 1,200,000	\$ 1,200,000
GRF 090-554	Police and Fire Survivor Benefits	\$ 1,320,000	\$ 1,260,000
GRF 090-575	Police and Fire Death Benefits	\$ 24,000,000	\$ 25,000,000
TOTAL GRF General Revenue Fund		\$ 37,127,535	\$ 38,357,535
Agency Fund Group			

Am. Sub. H. B. No. 95

2094

425	090-635	Tax Refunds	\$	31,000,000	\$	31,000,000
		TOTAL Agency Fund Group	\$	31,000,000	\$	31,000,000
		General Services Fund Group				
4E9	090-603	Securities Lending Income	\$	2,400,000	\$	2,100,000
577	090-605	Investment Pool	\$	600,000	\$	550,000
		Reimbursement				
605	090-609	Treasurer of State	\$	600,000	\$	700,000
		Administrative Fund				
		TOTAL GSF General Services				
		Fund Group	\$	3,600,000	\$	3,350,000
		State Special Revenue Fund Group				
5C5	090-602	County Treasurer Education	\$	175,000	\$	135,000
		TOTAL SSR State Special Revenue				
		Fund Group	\$	175,000	\$	135,000
		TOTAL ALL BUDGET FUND GROUPS	\$	71,902,535	\$	72,842,535

SECTION 106.01. OFFICE OF THE SINKING FUND

The foregoing appropriation item 090-401, Office of the Sinking Fund, shall be used for financing and other costs incurred by or on behalf of the Commissioners of the Sinking Fund, the Ohio Public Facilities Commission or its secretary, or the Treasurer of State, with respect to State of Ohio general obligation bonds or notes, including, but not limited to, printing, advertising, delivery, rating fees and the procurement of ratings, professional publications, membership in professional organizations, and services referred to in division (D) of section 151.01 of the Revised Code. The General Revenue Fund shall be reimbursed for such costs by intrastate transfer voucher pursuant to a certification by the Office of the Sinking Fund of the actual amounts used. The amounts necessary to make such reimbursements are appropriated from the general obligation bond retirement funds created by the Constitution and laws to the extent such costs are incurred.

POLICE AND FIRE DEATH BENEFIT FUND

The foregoing appropriation item 090-575, Police and Fire Death Benefits, shall be disbursed annually by the Treasurer of State at the beginning of each fiscal year to the Board of Trustees of the Ohio Police and Fire Pension Fund. By the twentieth day of June of each year, the Board of Trustees of the Ohio Police and Fire Pension Fund shall certify to the Treasurer of State the amount disbursed in the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this item but not disbursed.

The foregoing appropriation item 090-635, Tax Refunds, shall be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is

determined by the Director of Budget and Management that additional amounts are necessary, such amounts are appropriated.

SECTION 107. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

State Special Revenue Fund Group

691 810-632	PUSTRCB Staff	\$	1,075,158	\$	1,075,158
TOTAL SSR State Special Revenue					
Fund Group		\$	1,075,158	\$	1,075,158
TOTAL ALL BUDGET FUND GROUPS					

SECTION 108. TTA OHIO TUITION TRUST AUTHORITY

State Special Revenue Fund Group

5P3 095-602	Variable Savings Plan	\$	1,639,747	\$	1,690,213
645 095-601	Operating Expenses	\$	3,570,614	\$	3,689,101
TOTAL SSR State Special Revenue					
Fund Group		\$	5,210,361	\$	5,379,314
TOTAL ALL BUDGET FUND GROUPS					

SECTION 109. OVH OHIO VETERANS' HOME

General Revenue Fund

GRF 430-100	Personal Services	\$	20,664,311	\$	18,877,112
GRF 430-200	Maintenance	\$	6,912,553	\$	6,546,928
TOTAL GRF General Revenue Fund					

General Services Fund Group

484 430-603	Rental and Service Revenue	\$	709,737	\$	709,737
TOTAL GSF General Services Fund Group					

Federal Special Revenue Fund Group

3L2 430-601	Federal Grants	\$	12,220,340	\$	14,696,578
TOTAL FED Federal Special Revenue					
Fund Group		\$	12,220,340	\$	14,696,578

State Special Revenue Fund Group

4E2 430-602	Veterans Home Operating	\$	6,719,938	\$	7,769,277
604 430-604	Veterans Home Improvement	\$	770,096	\$	770,096
TOTAL SSR State Special Revenue					
Fund Group		\$	7,490,034	\$	8,539,373
TOTAL ALL BUDGET FUND GROUPS					

SECTION 110. VET VETERANS' ORGANIZATIONS

General Revenue Fund

VAP AMERICAN EX-PRISONERS OF WAR

GRF 743-501	State Support	\$	25,030	\$	25,030

VAN ARMY AND NAVY UNION, USA, INC.

GRF 746-501	State Support	\$	55,012	\$	55,012
VKW KOREAN WAR VETERANS					
GRF 747-501	State Support	\$	53,953	\$	49,453
VJW JEWISH WAR VETERANS					
GRF 748-501	State Support	\$	29,715	\$	29,715
VCW CATHOLIC WAR VETERANS					
GRF 749-501	State Support	\$	57,990	\$	57,990
VPH MILITARY ORDER OF THE PURPLE HEART					
GRF 750-501	State Support	\$	56,377	\$	56,377
VVV VIETNAM VETERANS OF AMERICA					
GRF 751-501	State Support	\$	185,954	\$	185,954
VAL AMERICAN LEGION OF OHIO					
GRF 752-501	State Support	\$	252,328	\$	252,328
VII AMVETS					
GRF 753-501	State Support	\$	237,919	\$	237,919
VAV DISABLED AMERICAN VETERANS					
GRF 754-501	State Support	\$	166,308	\$	166,308
VMC MARINE CORPS LEAGUE					
GRF 756-501	State Support	\$	85,972	\$	85,972
V37 37TH DIVISION AEF VETERANS' ASSOCIATION					
GRF 757-501	State Support	\$	5,946	\$	5,946
VFW VETERANS OF FOREIGN WARS					
GRF 758-501	State Support	\$	196,615	\$	196,615
TOTAL GRF General Revenue Fund		\$	1,409,119	\$	1,404,619
TOTAL ALL BUDGET FUND GROUPS		\$	1,409,119	\$	1,404,619

RELEASE OF FUNDS

The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 756-501, 757-501, and 758-501, State Support, shall be released upon approval by the Director of Budget and Management.

50th ANNIVERSARY COMMEMORATION OF THE KOREAN WAR

Of the foregoing appropriation item 747-501, State Support, Korean War Veterans, up to \$4,500 in fiscal year 2004 shall be used for activities to commemorate the 50th anniversary of the Korean War. Commemorative activities shall be carried out by the Korean War Veterans Organization with input from the Governor's Office of Veterans Affairs and the other veterans organizations representing Korean War veterans.

AMERICAN EX-PRISONERS OF WAR

The American Ex-Prisoners of War shall be permitted to share an office with the Veterans of World War I.

CENTRAL OHIO UNITED SERVICES ORGANIZATION

Of the foregoing appropriation item 751-501, State Support, Vietnam Veterans of America, \$50,000 in each fiscal year shall be used to support the

activities of the Central Ohio USO.

VETERANS SERVICE COMMISSION EDUCATION

Of the foregoing appropriation item 753-501, State Support, AMVETS, up to \$20,000 in each fiscal year may be used to provide moneys to the Association of County Veterans Service Commissioners to reimburse its member county veterans service commissions for costs incurred in carrying out educational and outreach duties required under divisions (E) and (F) of section 5901.03 of the Revised Code. The Director of Budget and Management shall release these funds upon the presentation of an itemized receipt from the association for reasonable and appropriate expenses incurred while performing these duties. The association shall establish uniform procedures for reimbursing member commissions.

SECTION 111. DVM STATE VETERINARY MEDICAL BOARD

General Services Fund Group

4K9 888-609	Operating Expenses	\$	444,208	\$	453,043
TOTAL GSF General Services					
Fund Group		\$	444,208	\$	453,043
TOTAL ALL BUDGET FUND GROUPS					
		\$	444,208	\$	453,043

SECTION 112. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund

GRF 470-401	RECLAIM Ohio	\$	164,637,416	\$	167,697,792
GRF 470-412	Lease Rental Payments	\$	21,110,100	\$	21,110,000
GRF 470-510	Youth Services	\$	18,608,587	\$	18,608,587
GRF 472-321	Parole Operations	\$	15,347,154	\$	14,841,872
GRF 477-321	Administrative Operations	\$	14,427,323	\$	14,166,008
TOTAL GRF General Revenue Fund		\$	234,130,580	\$	236,424,259

General Services Fund Group

175 470-613	Education Reimbursement	\$	8,817,598	\$	8,817,598
4A2 470-602	Child Support	\$	311,302	\$	320,641
4G6 470-605	General Operational Funds	\$	10,000	\$	10,000
479 470-609	Employee Food Service	\$	118,454	\$	122,008
523 470-621	Wellness Program	\$	197,778	\$	197,778
TOTAL GSF General Services					
Fund Group		\$	9,455,132	\$	9,468,025

Federal Special Revenue Fund Group

3V5 470-604	Juvenile Justice/Delinquency Prevention	\$	4,091,100	\$	4,254,744
3W0 470-611	Federal Juvenile Programs FFY 02	\$	4,500,000	\$	0
3Z8 470-625	Federal Juvenile Programs FFY 04	\$	7,828,899	\$	4,500,000
3Z9 470-626	Federal Juvenile Programs FFY 05	\$	0	\$	7,828,899
321 470-601	Education	\$	1,491,587	\$	1,555,147

Am. Sub. H. B. No. 95

2098

321	470-603	Juvenile Justice Prevention	\$	1,558,138	\$	1,558,138
321	470-606	Nutrition	\$	2,389,587	\$	2,485,170
321	470-610	Rehabilitation Programs	\$	585,000	\$	585,000
321	470-614	Title IV-E Reimbursements	\$	4,776,002	\$	4,919,282
321	470-617	Americorps Programs	\$	460,000	\$	460,000
TOTAL FED Federal Special Revenue Fund Group			\$	27,680,313	\$	28,146,380
State Special Revenue Fund Group						
147	470-612	Vocational Education	\$	2,523,653	\$	2,630,612
4W3	470-618	Help Me Grow	\$	11,587	\$	11,587
5J7	470-623	Residential Treatment Services	\$	500,000	\$	500,000
TOTAL SSR State Special Revenue Fund Group			\$	3,035,240	\$	3,142,199
TOTAL ALL BUDGET FUND GROUPS			\$	274,301,265	\$	277,180,863

ZERO-BASED BUDGETING

The Director of Budget and Management shall prepare a full zero-based budget for the biennium beginning July 1, 2005, for the Department of Youth Services. The Director shall offer the Department substantial technical assistance throughout the process of preparing their zero-based budget. The Department shall prepare a full zero-based budget in such manner and according to such schedule as the Director of Budget and Management requires. The zero-based budget shall, as the Director of Budget and Management determines, be in addition to or in place of the estimates of revenue and proposed expenditures that the Department otherwise would be required to prepare under section 126.02 of the Revised Code.

OHIO BUILDING AUTHORITY LEASE PAYMENTS

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments to the Ohio Building Authority for the period from July 1, 2003, to June 30, 2005, pursuant to the primary leases and agreements for facilities made under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,220,100. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

YOUTH SERVICES BLOCK GRANT

Of the foregoing appropriation item 470-510, Youth Services, \$50,000 in each fiscal year shall be distributed directly to Lighthouse Youth Services.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from

reimbursement for state surplus property.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item shall not be used for capital expenses.

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES

Any business relating to the funds associated with the Office of Criminal Justice Services' appropriation item 196-602, Criminal Justice Federal Programs, commenced but not completed by the Office of Criminal Justice Services or its director shall be completed by the Department of Youth Services or its director in the same manner, and with the same effect, as if completed by the Office of Criminal Justice Services or its director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and shall be administered by the Department of Youth Services.

Any action or proceeding against the Office of Criminal Justice Services pending on the effective date of this section shall not be affected by the transfer of responsibility to the Department of Youth Services, and shall be prosecuted or defended in the name of the Department of Youth Services or its director. In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party.

SECTION 113. EXPENDITURES AND APPROPRIATION INCREASES APPROVED BY THE CONTROLLING BOARD

Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves pursuant to the provisions of sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is appropriated for the period ending June 30, 2005.

SECTION 114. PERSONAL SERVICE EXPENSES

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public

employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section.

SECTION 115. REISSUANCE OF VOIDED WARRANTS

In order to provide funds for the reissuance of voided warrants pursuant to section 117.47 of the Revised Code, there is appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 116. * CAPITAL PROJECT SETTLEMENTS

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under the contract were payable in whole or in part from a state capital projects appropriation. In such a case, the director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code, or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The Controlling Board may approve or disapprove the application as submitted or modified. The amount of an increase in

appropriation or new appropriation specified in an application approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the director does not make the application authorized by this section or the Controlling Board disapproves the application, and the director does not make application pursuant to division (C)(4) of section 2743.19 of the Revised Code, the director shall for the purpose of making that payment make a request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 117. INCOME TAX DISTRIBUTION TO COUNTIES

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 118. SATISFACTION OF JUDGMENTS AND SETTLEMENTS AGAINST THE STATE

Any appropriation may be used for the purpose of satisfying judgments or settlements in connection with civil actions against the state in federal court not barred by sovereign immunity or the Eleventh Amendment to the Constitution of the United States, or for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims in connection with civil actions against the state, pursuant to section 2743.15, 2743.19, or 2743.191 of the Revised Code. This authorization does not apply to appropriations to be applied to or used for payment of guarantees by or on behalf of the state, for or relating to lease payments or debt service on bonds, notes, or similar obligations and those from the Sports Facilities Building Fund (Fund 024), the Highway Safety Building Fund (Fund 025), the Administrative Building Fund (Fund 026), the Adult Correctional Building Fund (Fund 027), the Juvenile Correctional Building Fund (Fund 028), the Transportation Building Fund (Fund 029), the Arts Facilities Building Fund (Fund 030), the Natural Resources Projects Fund (Fund 031), the School Building Program Assistance Fund (Fund 032), the Mental Health Facilities Improvement Fund (Fund 033), the Higher Education Improvement Fund (Fund 034), the Parks and Recreation Improvement Fund (Fund 035), the State Capital Improvements Fund (Fund 038), the Highway Obligation Fund (Fund 041), the Coal

Research/Development Fund (Fund 046), and any other fund into which proceeds of obligations are deposited. Nothing contained in this section is intended to subject the state to suit in any forum in which it is not otherwise subject to suit, nor is it intended to waive or compromise any defense or right available to the state in any suit against it.

SECTION 119. * UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS

The maximum amounts that may be assessed against nuclear electric utilities in accordance with division (B)(2) of section 4937.05 of the Revised Code are as follows:

	FY 2004	FY 2005
Department of Agriculture		
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059
Department of Health		
Fund 610 Radiation Emergency Response	\$923,315	\$923,315
Environmental Protection Agency		
Fund 644 ER Radiological Safety	\$281,424	\$286,114
Emergency Management Agency		
Fund 657 Utility Radiological Safety	\$1,200,000	\$1,260,000

SECTION 120. UNCLAIMED FUNDS TRANSFER

Notwithstanding division (A) of section 169.05 of the Revised Code, prior to June 30, 2004, upon the request of the Director of Budget and Management, the Director of Commerce shall transfer to the General Revenue Fund up to \$25,000,000 of the unclaimed funds that have been reported by the holder of unclaimed funds as provided by section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section.

SECTION 121. GRF TRANSFER TO FUND 5N4, OAKS PROJECT IMPLEMENTATION

On July 1, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer up to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation. On July 1, 2004, or as soon thereafter as possible, the Director of Budget and

Management shall transfer up to \$1,250,000 in cash from the General Revenue Fund to Fund 5N4, OAKS Project Implementation.

SECTION 122. FUND 4K9 TRANSFER TO GRF

On July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer \$2,000,000 in cash from Fund 4K9, Occupational Licensing and Regulatory Fund, to the General Revenue Fund.

SECTION 123. CORPORATE AND UCC FILING FUND TRANSFER TO GRF

Not later than the first day of June in each year of the biennium, the Director of Budget and Management shall transfer \$1,000,000 from the Corporate and Uniform Commercial Code Filing Fund to the General Revenue Fund.

SECTION 124. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

SECTION 125. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated.

SECTION 126. AUTHORIZATION FOR TREASURER OF STATE AND OBM TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS

The Office of Budget and Management shall initiate and process disbursements from general obligation and lease rental payment

appropriation items during the period from July 1, 2003, to June 30, 2005, relating to bonds or notes issued under Sections 2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, and Chapters 151., 154., and 3318. of the Revised Code. Disbursements shall be made upon certification by the Treasurer of State of the dates and amounts due on those dates.

SECTION 127. STATE AND LOCAL REBATE AUTHORIZATION

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations pursuant to section 148(f) of the Internal Revenue Code.

Rebate payments shall be approved and vouchered by the Office of Budget and Management.

SECTION 128. APPROPRIATIONS RELATED TO CASH TRANSFERS AND REESTABLISHMENT OF ENCUMBRANCES

Any cash transferred by the Director of Budget and Management as provided by section 126.15 of the Revised Code is appropriated. Any amounts necessary to reestablish appropriations or encumbrances as provided in section 126.15 of the Revised Code are appropriated.

SECTION 129. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management is authorized to cancel and reestablish all or parts of encumbrances in like amounts within the funds identified by the plan. The amounts necessary to reestablish all or parts of encumbrances are appropriated.

SECTION 130. STATEWIDE INDIRECT COST RECOVERY

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs pursuant to section

126.12 of the Revised Code, the amount required for such purpose is appropriated from the available receipts of such fund.

SECTION 131. GRF TRANSFERS ON BEHALF OF THE STATEWIDE INDIRECT COST ALLOCATION PLAN

The total transfers made from the General Revenue Fund by the Director of Budget and Management pursuant to this section shall not exceed the amounts transferred into the General Revenue Fund pursuant to division (B) of section 126.12 of the Revised Code.

A director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the Statewide Indirect Cost Allocation plan pursuant to federal regulations, from any fund included in the Statewide Indirect Cost Allocation plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared pursuant to section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

SECTION 132. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(A) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells for a period of not more than five months from the end of the fiscal year;

(B) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval

of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(C) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(D) For an encumbrance for any other expense, for such period as the director approves, provided such period does not exceed two years.

Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year, pursuant to division (B) of this section, shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the item, and the name of the vendor. This report to the board shall be updated on a quarterly basis for encumbrances remaining open.

Upon the expiration of the reappropriation period set out in divisions (A), (B), (C), or (D) of this section, a reappropriation made pursuant to this section lapses, and the Director of Budget and Management shall cancel the encumbrance of the unexpended reappropriation not later than the end of the weekend following the expiration of the reappropriation period.

Notwithstanding the preceding paragraph, with the approval of the Director of Budget and Management, an unexpended balance of an encumbrance that was reappropriated on the first day of July pursuant to this section for a period specified in division (C) or (D) of this section and that remains encumbered at the close of the fiscal biennium is hereby reappropriated pursuant to this section on the first day of July of the following fiscal biennium from the fund from which it was originally appropriated or reappropriated for the applicable period specified in division (C) or (D) of this section and shall remain available only for the purpose of discharging the encumbrance.

If the Controlling Board approved a purchase, that approval remains in effect as long as the appropriation used to make that purchase remains encumbered.

SECTION 133. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

Notwithstanding any provision of law to the contrary, on or before the first day of September of each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government, as determined by the plan prepared pursuant to division (A) of section 126.12 of the Revised Code, may designate such funds as the

director considers necessary to retain their own interest earnings.

SECTION 134.01. That Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows:

Sec. 11. DOT DEPARTMENT OF TRANSPORTATION

FUND	TITLE		FY 2004		FY 2005
Transportation Planning and Research					
Highway Operating Fund Group					
002	771-411	Planning and Research - State	\$ 14,548,950	\$	15,070,100
002	771-412	Planning and Research - Federal	\$ 35,193,300	\$	35,644,900
TOTAL HOF Highway Operating					
Fund Group					
			\$ 49,742,250	\$	50,715,000
TOTAL ALL BUDGET FUND GROUPS -					
Transportation Planning and Research					
			\$ 49,742,250	\$	50,715,000
Highway Construction					
Highway Operating Fund Group					
002	772-421	Highway Construction - State	\$ 485,577,430	\$	442,367,300
002	772-422	Highway Construction - Federal	\$ 762,964,700	\$	766,001,700
002	772-424	Highway Construction - Other	\$ 70,000,000	\$	51,000,000
212	770-005	Infrastructure Debt Service - Federal	\$ 72,064,200	\$	78,696,100
212	772-423	Infrastructure Lease Payments - Federal	\$ 12,537,800	\$	12,537,300
212	772-426	Highway Infrastructure Bank - Federal	\$ 2,740,000	\$	2,620,000
212	772-427	Highway Infrastructure Bank - State	\$ 11,000,000	\$	11,000,000
TOTAL HOF Highway Operating					
Fund Group					
			\$ 1,416,884,130	\$	1,364,222,400
Highway Capital Improvement Fund Group					
042	772-723	Highway Construction - Bonds	\$ 220,000,000	\$	220,000,000
TOTAL 042 Highway Capital					
Improvement Fund Group					
			\$ 220,000,000	\$	220,000,000
Infrastructure Bank Obligations Fund Group					
045	772-428	Highway Infrastructure Bank - Bonds	\$ 40,000,000	\$	40,000,000
TOTAL 045 Infrastructure Bank					
Obligations Fund Group					
			\$ 40,000,000	\$	40,000,000
TOTAL ALL BUDGET FUND GROUPS -					
Highway Construction					
			\$ 1,678,384,130	\$	1,627,222,400
Highway Maintenance					
Highway Operating Fund Group					
002	773-431	Highway Maintenance - State	\$ 394,605,100	\$	413,082,600
TOTAL HOF Highway Operating					
Fund Group					
			\$ 394,605,100	\$	413,082,600

Am. Sub. H. B. No. 95

2108

TOTAL ALL BUDGET FUND GROUPS -
Highway Maintenance \$ 394,605,100 \$ 413,082,600

Public Transportation

Highway Operating Fund Group

002 775-452 Public Transportation - Federal \$ 27,000,000 \$ 27,000,000

002 775-454 Public Transportation - Other \$ 1,500,000 \$ 1,500,000

002 775-459 Elderly and Disabled Special Equipment - Federal \$ 4,230,000 \$ 4,230,000

TOTAL HOF Highway Operating Fund Group \$ 32,730,000 \$ 32,730,000

TOTAL ALL BUDGET FUND GROUPS - Public Transportation \$ 32,730,000 \$ 32,730,000

Rail Transportation

Highway Operating Fund Group

002 776-462 Grade Crossings - Federal \$ 15,000,000 \$ 15,000,000

TOTAL HOF Highway Operating Fund Group \$ 15,000,000 \$ 15,000,000

~~State Special Revenue Fund Group~~

~~4A3 776-665 Railroad Crossing Safety Devices \$ 1,000,000 \$ 0~~

~~TOTAL SSR State Special Revenue Fund Group \$ 1,000,000 \$ 0~~

TOTAL ALL BUDGET FUND GROUPS -

Rail Transportation \$ ~~16,000,000~~
15,000,000 \$ 15,000,000

Aviation

Highway Operating Fund Group

002 777-472 Airport Improvements - Federal \$ 405,000 \$ 405,000

002 777-475 Aviation Administration \$ 4,064,700 \$ 4,139,000

TOTAL HOF Highway Operating Fund Group \$ 4,469,700 \$ 4,544,000

TOTAL ALL BUDGET FUND GROUPS - Aviation \$ 4,469,700 \$ 4,544,000

Administration

State Special Revenue Fund Group

4T5 770-609 Administration Memorial Fund \$ 5,000 \$ 5,000

TOTAL SSR State Special Revenue

Fund Group \$ 5,000 \$ 5,000

Highway Operating Fund Group

002 779-491 Administration - State \$ 116,449,900 \$ 121,986,500

TOTAL HOF Highway Operating Fund Group \$ 116,449,900 \$ 121,986,500

TOTAL ALL BUDGET FUND GROUPS - Administration \$ 116,454,900 \$ 121,991,500

Debt Service

Highway Operating Fund Group

002 770-003 Administration - State - Debt \$ 13,802,600 \$ 13,395,900

Service			
TOTAL HOF Highway Operating			
Fund Group	\$	13,802,600	\$ 13,395,900
TOTAL ALL BUDGET FUND GROUPS -			
Debt Service	\$	13,802,600	\$ 13,395,900

TOTAL Department of Transportation

TOTAL HOF Highway Operating			
Fund Group	\$	2,043,683,680	\$ 2,015,676,400
TOTAL 042 Highway Capital			
Improvement Fund Group	\$	220,000,000	\$ 220,000,000
TOTAL 045 Infrastructure Bank			
Obligations Fund Group	\$	40,000,000	\$ 40,000,000
TOTAL SSR State Special Revenue			
Fund Group	\$	~~1,005,000~~	\$ 5,000
		<u>5,000</u>	
TOTAL ALL BUDGET FUND GROUPS	\$	~~2,304,688,680~~	\$ 2,275,681,400
		<u>2,303,688,680</u>	

Sec. 11.04. PUBLIC ACCESS ROADS FOR STATE FACILITIES

Of the foregoing appropriation item 772-421, Highway Construction - State, \$3,145,500 is to be used each fiscal year during the 2003-2005 biennium by the Department of Transportation for the construction, reconstruction, or maintenance of public access roads, including support features, to and within state facilities owned or operated by the Department of Natural Resources, as requested by the Director of Natural Resources.

Notwithstanding section 5511.06 of the Revised Code, of the foregoing appropriation item 772-421, Highway Construction - State, \$2,228,000 in each fiscal year of the 2003-2005 biennium shall be used by the Department of Transportation for the construction, reconstruction, or maintenance of park drives or park roads within the boundaries of metropolitan parks.

Included in the foregoing appropriation item 772-421, Highway Construction - State, the department may perform related road work on behalf of the Ohio Expositions Commission at the state fairgrounds, including reconstruction or maintenance of public access roads, including support features, to and within the facilities as requested by the commission and approved by the Director of Transportation.

LIQUIDATION OF UNFORESEEN LIABILITIES

Any appropriation made to the Department of Transportation, Highway Operating Fund, not otherwise restricted by law, is available to liquidate unforeseen liabilities arising from contractual agreements of prior years when the prior year encumbrance is insufficient.

~~RUMBLE STRIPS AT RAILROAD CROSSINGS~~

~~Of the foregoing appropriation item 776-665, Railroad Crossing Safety Devices, \$1,000,000 in fiscal year 2004 shall be used by the Department of Transportation to fund competitive grants to political subdivisions for the~~

cost of putting rumble strips at active railroad crossings without gates or lights. The maximum amount of a competitive grant is \$50,000 for any single crossing. Each political subdivision with jurisdiction over a crossing may apply to the Department for a competitive grant for the costs of putting rumble strips at crossings. Those political subdivisions awarded grants shall install the rumble strips by December 1, 2004. Those political subdivisions awarded such grants shall not use the moneys as matching funds for any ~~other state rail safety programs.~~

If rumble strips are not appropriate for a crossing, the Department may allow the political subdivision which is awarded the grant to use the funding ~~for a safety device or technology more appropriate for the crossing.~~

The Department shall notify each political subdivision with jurisdiction over a crossing of the requirements of this section that funding is available for rumble strips at crossings and for other rail crossing safety improvements. The Department also shall notify associations representing ~~political subdivisions of the availability of the funding.~~

The Department shall spend no more than five per cent of the ~~appropriation item on Department administrative expenses.~~

The Department shall issue a report on or before June 30, 2005, describing the activities carried out by the Department to comply with the provisions of this section. The report shall include the number of crossings at which rumble strip installation was completed, the cost of each installation to date, the number of active crossings without gates or lights that still do not have rumble strips, and a geographic breakdown of where ~~the crossings are that have and have not yet received rumble strips.~~

All appropriations in Fund 4A3, appropriation item 776-665, Railroad Crossing Safety Devices, remaining unencumbered on June 30, 2004, are hereby reappropriated for the same purpose in fiscal year 2005. The ~~Department shall report all such appropriations to the Controlling Board.~~

SECTION 134.02. That existing Sections 11 and 11.04 of Am. Sub. H.B. 87 of the 125th General Assembly are hereby repealed.

SECTION 134.03. That Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly be amended to read as follows:

Sec. 13.05. EMERGENCY MANAGEMENT

Federal Special Revenue Fund Group

3N5	763-644	U.S. DOE Agreement	\$	266,000	\$	275,000
329	763-645	Individual/Family Grant - Fed	\$	303,504	\$	303,504
337	763-609	Federal Disaster Relief	\$	~~5,000,000~~	\$	3,000,000

Am. Sub. H. B. No. 95

			2111			
				<u>23,000,000</u>		
			\$	~~129,622,000~~	\$	~~129,622,000~~
339	763-647	Emergency Management Assistance and Training		<u>111,622,000</u>		<u>111,622,000</u>
TOTAL FED Federal Special						
Revenue Fund Group						
			\$	135,191,504	\$	~~133,200,504~~
						<u>115,200,504</u>
General Services Fund Group						
4V3	763-662	EMA Service and Reimbursement	\$	696,446	\$	696,446
533	763-601	State Disaster Relief	\$	7,500,000	\$	7,500,000
TOTAL GSF General Services Fund Group						
			\$	8,196,446	\$	8,196,446
State Special Revenue Fund Group						
657	763-652	Utility Radiological Safety	\$	1,200,000	\$	1,260,000
681	763-653	SARA Title III HAZMAT Planning	\$	264,510	\$	271,510
TOTAL SSR State Special Revenue Fund Group						
			\$	1,464,510	\$	1,531,510
TOTAL ALL BUDGET FUND GROUPS - Emergency Management						
			\$	144,852,460	\$	~~142,928,460~~
						<u>124,928,460</u>

SARA TITLE III HAZMAT PLANNING

The SARA Title III HAZMAT Planning Fund (Fund 681) shall receive grant funds from the Emergency Response Commission to implement the Emergency Management Agency's responsibilities under Chapter 3750. of the Revised Code.

STATE DISASTER RELIEF

The foregoing appropriation item 763-601, State Disaster Relief, may accept transfers of cash and appropriations from Controlling Board appropriation items to reimburse eligible local governments and private nonprofit organizations for costs related to disasters that have been declared by local governments or the Governor. The Ohio Emergency Management Agency shall publish and make available an application packet outlining eligible items and application procedures for entities requesting state disaster relief.

Individuals may be eligible for reimbursement of costs related to disasters that have been declared by the Governor and the Small Business Administration. The funding in appropriation item 763-601, State Disaster Relief, shall be used in accordance with the principles of the federal Individual and Family Grant Program, which provides grants to households that have been affected by a disaster to replace basic living items. The Ohio Emergency Management Agency shall publish and make available an application procedure for individuals requesting assistance under the state Individual Assistance Program.

EMA SERVICE AND REIMBURSEMENT FUND

On July 1, 2003, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) to the EMA Service and Reimbursement Fund (Fund 4V3), created in section 5502.39 of the Revised Code. Upon the completion of the transfer, notwithstanding any other provision of law to the contrary, the EMA Utility Payment Fund (Fund 4Y0) and the Salvage and Exchange-EMA Fund (Fund 4Y1) are abolished. The director shall cancel any existing encumbrances against appropriation items 763-654, EMA Utility Payment, and 763-655, Salvage and Exchange-EMA, and reestablish them against appropriation item 763-662, EMA Service and Reimbursement. The amounts of the reestablished encumbrances are hereby appropriated.

SECTION 134.04. That existing Section 13.05 of Am. Sub. H.B. 87 of the 125th General Assembly is hereby repealed.

SECTION 134.05. That section 7 of Am. Sub. H.B. 512 of the 124th General Assembly be amended to read as follows:

Sec. 7. Division (A) (4) of section 2915.08 of the Revised Code shall not be applied until ~~one year after the effective date of this act~~ January 31, 2004.

SECTION 134.06. That existing Section 7 of Am. Sub. H.B. 512 of the 124th General Assembly is hereby repealed.

SECTION 134.07. That Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly be amended to read as follows:

Sec. 1.09. Sections 1.07 and 1.08 of ~~this act~~ H.B. 675 of the 124th General Assembly take effect ~~July~~ January 1, 2003 2004.

Sec. 35.03. Section 5739.031 of the Revised Code takes effect ~~July 1, 2003~~ January 1, 2004.

SECTION 134.08. That existing Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly are hereby repealed.

SECTION 134.09. The amendment by this act of Sections 1.09 and 35.03 of H.B. 675 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

SECTION 134.10. That Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly be amended to read as follows:

			Appropriations
Sec. 18.03. DMH DEPARTMENT OF MENTAL HEALTH			
CAP-479	Community Assistance Projects	\$	<u>3,912,500</u>
			<u>3,662,500</u>
CAP-906	Campus Consolidation/Automation	\$	12,040,000
CAP-978	Infrastructure Improvements	\$	3,460,000
Total Department of Mental Health		\$	<u>19,412,500</u>
			<u>19,162,500</u>

COMMUNITY ASSISTANCE PROJECTS

Of the foregoing appropriation item CAP-479, Community Assistance Projects, ~~\$500,000 shall be used for the Achievement Centers for Children in Cuyahoga County~~ \$250,000 shall be used for the Berea Children's Home.

Sec. 18.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

		Appropriations	
STATEWIDE AND CENTRAL OFFICE PROJECTS			
CAP-480	Community Assistance Projects	\$	<u>9,441,000</u>
			<u>9,691,000</u>
CAP-955	Statewide Development Centers	\$	3,959,000
Total Statewide and Central Office Projects		\$	<u>13,400,000</u>
			<u>13,650,000</u>
TOTAL Department of Mental Retardation and Developmental Disabilities		\$	<u>13,400,000</u>
			<u>13,650,000</u>
TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND		\$	33,079,012

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or

renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, Community Assistance Projects, \$150,000 shall be used for the Fostoria Area Community Childhood and Family Center; ~~\$250,000 shall be used for the Berea Children's Home; and \$1,000,000 shall be used for the Bellefaire Jewish Children's Bureau; and \$500,000 shall be used for the Achievement Centers~~ for Children in Cuyahoga County.

Appropriations

Sec. 19.39. BTC BELMONT TECHNICAL COMMUNITY COLLEGE

CAP-008	Basic Renovations	\$	214,638
Total Belmont ~~Technical~~ <u>Community College</u>		\$	214,638

Sec. 19.52. The requirements of Chapters 123. and 153. of the Revised Code, with respect to the powers and duties of the Director of Administrative Services, and the requirements of section 127.16 of the Revised Code, with respect to the Controlling Board, shall not apply to projects of community college districts, which include Belmont Community College, Cuyahoga Community College, Jefferson Community College, Lakeland Community College, Lorain County Community College, Rio Grande Community College, and Sinclair Community College; and technical college districts which include ~~Belmont Technical College~~, Central Ohio Technical College, Hocking Technical College, Lima Technical College, Marion Technical College, Muskingum Area Technical College, North Central Technical College, and Stark Technical College.

SECTION 134.11. That existing Sections 18.03, 18.04, 19.39, and 19.52 of H.B. 675 of the 124th General Assembly are hereby repealed.

SECTION 134.12. That Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. S.B. 261 of the 124th General Assembly, be amended to read as follows:

Sec. 63.37. NURSING FACILITY STABILIZATION FUND

(A) As used in this section:

(1) ~~"Inpatient Franchise permit fee"~~ "Inpatient Franchise permit fee" means the fee imposed by sections 3721.50 to 3721.58 of the Revised Code.

(2) ~~"Inpatient days"~~ "Inpatient days" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

~~(2)~~(3) "Medicaid day" means all days during which a resident who is a Medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(B) The Department of Job and Family Services shall use money in the Nursing Facility Stabilization Fund created under section 3721.56 of the Revised Code to do all of the following:

~~(1)~~ Make payments to nursing facilities under ~~sections 5111.20 to 5111.32~~ Chapter 5111. of the Revised Code;

~~(2)~~ Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for each Medicaid day in fiscal year 2002 in an amount equal to sixty-nine and seven-tenths per cent of the franchise permit fee the nursing facility pays ~~under section 3721.53 of the Revised Code~~ for the fiscal year the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;

~~(3)~~ Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for each Medicaid day in fiscal years 2003, 2004, and 2005 in an amount equal to seventy-six and seventy-four-hundredths per cent of the franchise permit fee the nursing facility pays ~~under section 3721.53 of the Revised Code~~ for the fiscal year the department makes the payment divided by the nursing facility's inpatient days for the calendar year preceding the calendar year in which that fiscal year begins;

(4) Beginning with payments made to nursing facilities in August 2001, make payments to each nursing facility for fiscal year 2002 in an amount equal to one dollar and fifty cents per Medicaid day for the purpose of enhancing quality of care;

~~(5)~~ Beginning with payments made to nursing facilities in August 2002, make payments to each nursing facility for fiscal years 2003, 2004, and 2005 in an amount equal to two dollars and twenty-five cents per Medicaid day for the purpose of enhancing quality of care.

(C) Any money remaining in the Nursing Facility Stabilization Fund after payments specified in division (B) of this section are made for fiscal years 2002, 2003, 2004, and 2005 shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make payments in accordance with division (B) of

this section.

~~(D) Notwithstanding division (N) of section 5111.20 of the Revised Code, the Department of Job and Family Services, in making Medicaid payments to a nursing facility under sections 5111.20 to 5111.32 Chapter 5111. of the Revised Code, shall do both of the following:~~

~~(1) Exclude from a nursing facility's other protected costs the cost of sixty nine and seven tenths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal year 2002 if the nursing facility receives payments under division (B)(2) of this section for sixty nine and seven tenths per cent of those franchise permit fees;~~

~~(2) Exclude from a nursing facility's other protected costs the cost of seventy six and seventy four hundredths per cent of the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code for fiscal years 2003, 2004, and 2005 if the nursing facility receives payments under division (B)(2) of this section for seventy six and seventy four hundredths per cent of those franchise permit fees A nursing facility filing its cost report with the Department of Job and Family Services under section 5111.26 of the Revised Code shall do all of the following:~~

~~(1) For the nursing facility's cost report covering calendar year 2003, report as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2003 and the first half of fiscal year 2004.~~

~~(2) For the nursing facility's cost report covering calendar year 2004, report as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2004 and the first half of fiscal year 2005.~~

~~(3) For the nursing facility's cost report covering calendar year 2005, report, for the first half of the calendar year, as a non-reimbursable expense the cost of seventy-six and seventy-four hundredths per cent of the franchise permit fee that the nursing facility pays for the second half of fiscal year 2005.~~

(E) The limitation of Section 230 of Am. Sub. H.B. 94 of the 124th General Assembly is not applicable to the amendments made by this act to this section.

SECTION 134.13. That existing Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly, as most recently amended by Am. Sub. S.B. 261

of the 124th General Assembly, is hereby repealed.

SECTION 134.14. That Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly be amended to read as follows:

Sec. 3. Sections ~~5739.021, 5739.023, 5739.026, 5739.03, 5739.031, 5739.033,~~ 5739.12, 5741.02, and 5741.12, and division (I)(7) of section 5741.01 of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, and sections 306.73, 5703.65, 5739.04, 5739.06, 5741.05, and 5741.08 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect July 1, 2003. Sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code, as amended by Am. Sub. S.B. 143 of the 124th General Assembly, shall take effect January 1, 2004.

SECTION 134.15. That existing Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly is hereby repealed.

SECTION 134.16. The amendment by this act of Section 3 of Am. Sub. S.B. 143 of the 124th General Assembly provides for or is essential to the implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into immediate effect when this act becomes law.

SECTION 135. The amendments to sections 5739.021, 5739.023, and 5739.026 of the Revised Code by Am. Sub. S.B. 143 of the 124th General Assembly apply to levies proposed by a resolution adopted on or after January 1, 2004, and do not apply to levies proposed by a resolution adopted before that date.

SECTION 136. Sections 131G, 131H, 131I, and 131J of this act intend to delay the scheduled July 1, 2003, effective date of sections 5739.021, 5739.023, 5739.026, 5739.031, and 5739.033 of the Revised Code until January 1, 2004.

SECTION 137.01. That Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly be amended to read as follows:

Sec. 10. NET SCHOOLNET COMMISSION

Tobacco Master Settlement Agreement Fund Group

S87 228-602	Education Technology Trust	\$	16,500,000	\$	16,500,000
	Fund				

TOTAL TSF Tobacco Master
Settlement Agreement Fund

Group		\$	16,500,000	\$	16,500,000
TOTAL ALL BUDGET FUND GROUPS		\$	16,500,000	\$	16,500,000

EDUCATION TECHNOLOGY TRUST FUND

The foregoing appropriation item 228-602, Education Technology Trust Fund, shall be used by the SchoolNet Commission for grants to school districts and other entities and for the costs of administering these grants. Of the total amount for grants, \$1,917,293 in fiscal year 2003 shall be used for the Ohio ONenet project, \$909,247 in fiscal year 2003 shall be used for the INFOhio Network, \$298,750 in fiscal year 2003 shall be used for the JASON Project, \$1,000,000 in fiscal year 2003 shall be used for RISE Learning Solutions, and \$200,000 in fiscal year 2003 shall be used for the Stark County School Teacher Technical Training Center. The remaining amount for grants shall be made to school districts.

The JASON Project shall provide funding for statewide access and a seventy-five per cent subsidy for statewide licensing of JASON content for 90,000 middle school students statewide, and professional development for teachers participating in the JASON Project.

It is the intent of the General Assembly that the SchoolNet Commission, in conjunction with RISE Learning Solutions, shall develop a program that may be conducted in conjunction with state-supported technology programs, including, but not limited to, SchoolNet Commission appropriation item 228-406, Technical and Instructional Professional Development, and appropriation item 228-539, Education Technology, and that shall be designed to educate preschool staff members and providers on developmentally appropriate teaching methods, behavior guidance, and literacy and to involve parents more closely in the education and development of their children. The program shall include an interactive instructional component, delivered using satellite television, Internet, and with facilitation, and shall be distributed to program participants using the established satellite receiver dishes on public schools, Head Start centers, and childcare centers at up to 100 locations throughout the state. The interactive instructional component of the program shall be developed to enhance the professional development, training, and performance of preschool staff members, the education and care-giving skills of the parents of preschool children, and the preparation of preschool-age children for learning.

The program shall utilize the grant to continue a direct-service component that shall include at least three teleconferences that may be distributed by Ohio-based public television utilizing satellite or microwave technology in a manner designed to promote interactive communications between the program participants located at subsites within the Ohio Educational Broadcast Network or as determined by the commission. Program participants shall communicate with trainers and participants at other program sites through telecommunications and facsimile and on-line computer technology. As much as possible, the direct-service component shall utilize systems currently available in state-supported technology programs and conduct the component in a manner that promotes innovative, interactive communications between program participants at all the sites. Parent support groups and teacher training sessions shall supplement the teleconferences and shall occur on a local basis.

RISE Learning Solutions may subcontract components of the program.

Individuals eligible to participate in the program include those children, their parents, custodians, or guardians, and preschool staff members who are eligible to participate in a preschool program as defined in division (A) of section 3301.52 and section 5104.02 of the Revised Code.

The components of the program, including two that shall be developed in support of teacher proficiency in teaching reading to prekindergarten and kindergarten to third grade students, at the direction of the Department of Education, may include: two three-hour broadcast seminars from a central up-link station, distributed in up to 88 counties; high production-value video sought in various locations; and direct interactive adult learning activities. These two components shall include development of workbooks and involve at least three small, group-facilitated follow-up discussion workshops and development and distribution of at least two home videos. The program shall also provide Internet access, interactive lines, bulletin board, and CD-ROM.

Upon completion of each of the school years for which the grant was made, RISE Learning Solutions shall issue a report to the commission and members of the General Assembly explaining the goals and objectives determined, the activities implemented, the progress made toward the achievement of the goals and objectives, and the outcome of the program.

The commission shall use the remaining appropriation authority in fiscal year 2003 and appropriation authority granted in fiscal year 2004 to establish and equip, through the SchoolNet Plus Program, at least one interactive computer station for each five children enrolled in the sixth grade as determined by a three-year average adjusted per pupil property valuation

pursuant to division (A) of section 3317.03 of the Revised Code. Districts in the first two quartiles of wealth shall receive up to \$380 per pupil for students in grade six to purchase classroom computers for the sixth grade. Districts in the third and fourth quartile shall receive ~~approximately~~ up to \$188 per sixth grade pupil. If a district has met the state's goal of one computer to every five students, the district may use funds provided through the SchoolNet Plus Program to purchase computers for grade seven or to fulfill educational technology needs on other grades as specified in the district's technology plan. When there is at least one computer for each five children enrolled in the sixth grade, SchoolNet shall use any remaining funds appropriated to establish and equip at least one interactive computer workstation for each five children enrolled in the seventh grade as determined by the previously defined formula.

Sec. 14. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Education Facilities Trust Fund (Fund N87) that are not otherwise appropriated.

		Appropriations	
SFC SCHOOL FACILITIES COMMISSION			
CAP-780	Classroom Facilities Assistance Program	\$	~~148,400,000~~ <u>25,600,000</u>
Total School Facilities Commission		\$	~~148,400,000~~ <u>25,600,000</u>
TOTAL Education Facilities Trust Fund		\$	~~148,400,000~~ <u>25,600,000</u>

SECTION 137.02. That existing Sections 10 and 14 of Am. Sub. S.B. 242 of the 124th General Assembly is hereby repealed.

SECTION 137.03. That Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly be amended to read as follows:

		Reappropriations	
Sec. 24.43. BTC BELMONT ~~TECHNICAL~~ <u>COMMUNITY</u> COLLEGE			
CAP-008	Basic Renovations	\$	653,372
CAP-014	Main Building Renovation - Phase 3	\$	49,137
CAP-019	ADA Modifications	\$	45,915
Total Belmont ~~Technical~~ <u>Community</u> College		\$	748,424

SECTION 137.04. That existing Section 24.43 of Am. Sub. H.B. 524 of the 124th General Assembly is hereby repealed.

SECTION 137.05. That Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. Section 1751.68 of the Revised Code is hereby repealed, effective October 16, ~~2003~~ 2005.

SECTION 137.06. That existing Section 3 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.07. * That Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the Revised Code are hereby repealed, effective ~~July 1, 2003~~ October 15, 2005.

SECTION 137.08. * That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.09. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2003~~ 2005.

(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2003~~ 2005, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

SECTION 137.10. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.11. * That Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, be amended to read as follows:

Sec. 27. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2004:

AGENCY NAME	REVISED CODE OR ~~UNCODIFIED~~ <u>UNCODIFIED</u> SECTION
Advisory Council on Amusement Ride Safety	1711.51
Advisory Board of Directors for Prison Labor	5145.162
Appalachian Public Facilities Council	Sec. 3, H.B. 280, 121st GA
Apprenticeship Council	4111.26
Armory Board of Control	5911.09
Banking Commission	1123.01
Board of Voting Machine Examiners	3506.05(B)
Board of Governors, Medical Malpractice Joint	3929.77
Underwriting Association	
Board of Tax Appeals	5703.02
Brain Injury Advisory Committee ~~Committee~~	3304.231
	~~3304.231~~
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3113.215(G)
Children's Trust Fund Board	3109.15
Citizen's Advisory Council (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Citizen's Advisory Council (Dept. of Mental Health)	5119.81
~~Civilian Conservation Advisory Committee~~	~~1553.10~~
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12

Commission on Hispanic-Latino Affairs	121.31
Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353
Continuing Education Committee (for sheriffs)	109.80
Controlling Board	127.12
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mine Lands	1513.29
County Sheriffs' Standard Car Marking and Uniform Commission	311.25
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Development Financing Advisory Council	122.40
Electrical Safety Inspector Advisory Committee	3783.08
Engineering Experiment Station Advisory Committee	3335.27
Environmental Review Appeals Commission	3745.02
Environmental Education Council	3745.21
Forestry Advisory Council	1503.40
Governor's Community Service Council	121.40
Governor's Council on People with Disabilities	3303.41
~~Hazardous Waste Facility Board~~	~~3734.05~~
Health Care Quality Advisory Council	4121.442
Health Data Advisory Committee	3729.61
Hemophilia Advisory Council	3701.145
Historic Site Preservation Advisory Board	149.301
Hospital Advisory Committee and the Medical Advisory Committee of the Joint Underwriting Association Board of Governors	3929.76
Industrial Commission	4121.02
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Insurance Agent Education Advisory Council	3905.483
Interagency Recycling Market Development Workgroup	1502.10
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60

Martha Kinney Cooper Ohioana Library	3375.62
Association Board of Trustees	
Maternal and Child Health Council	3701.025
~~Medicaid Long-Term Care Reimbursement Study~~	~~5111.34~~
~~Council~~	
Medically Handicapped Children's Medical	3701.025
Advisory Council	
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51
Multi-Agency Radio Communication Systems	Sec. 21, H.B.
Steering Committee	790, 120th GA
Multidisciplinary Council	3746.03
National Museum of Afro-American History and	149.303
Culture Planning Committee	
<u>Nursing Facility Reimbursement Study Council</u>	<u>5111.34</u>
Ohio Advisory Council for the Aging	173.03
Ohio Arts Council	3379.02
Ohio Arts and Sports Facilities Commission	3383.02
Ohio Benefit Systems Data Linkage Committee	125.24
Ohio Bicentennial Commission	149.32
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Commission on Dispute Resolution and	179.02
Conflict Management	
Ohio Educational Telecommunications Network	3353.02
Commission	
Ohio Ethics Commission	102.05
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Historical Society Board of Trustees	149.30
Ohio Lake Erie Commission	1506.21
Ohio Medical Quality Foundation	3701.89
Ohio Natural Areas Council	1517.03
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Quarter Horse Development Commission	3769.086
Ohio Scenic Rivers Advisory Councils	1517.18
Ohio Small Government Capital Improvements	164.02

Commission	
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio Veterans' Home Board of Trustees	5907.02
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Oil and Gas Commission	1509.35
Organized Crime Investigations Commission	177.01
Parole Board	5149.10
Pharmacy and Therapeutics Committee of the Dept. of Human Services	5111.81
Physical Fitness and Sports Advisory Board	3701.77
Power Siting Board	4906.02
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Utilities Commission Nominating Council	4901.021
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer Advisory Committee	3304.24
Select Commission on Pyrotechnics	Sec. 3, H.B. 508, 119th GA
Services Committee of the Workers' Compensation System	4121.06
Set Aside Review Board	123.151(C)(4)
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Board of Deposit	135.02
State Board of Library Examiners	3375.47

State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services of Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Fire Commission	3737.81
State and Local Government Commission of Ohio	105.45
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081
Subcommittee of the State Board of Emergency Medical Services for Firefighter and Fire Safety Inspector Training	4765.55
Submerged Lands Advisory Council	1506.37
Tax Credit Authority	122.17
Technical Advisory Committee to assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Technology Advisory Committee (for Education)	Sec. 45.01, H.B. 117, 121st GA
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Veterans Advisory Committee	5902.02(K)
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Welfare Oversight Council	5101.93
Wildlife Council	1531.03
Workers' Compensation System Oversight Committee	Sec. 10, H.B. 222, 118th GA
Wright-Dunbar State Heritage Commission	149.321

SECTION 137.12. * That existing Section 27 of Sub. H.B. 670 of the 121st General Assembly, as amended by Sub. H.B. 548 of the 123rd General Assembly, is hereby repealed.

SECTION 137.13. That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, be amended to read as follows:

Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~2003~~ 2005.

SECTION 137.14. That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 94 of the 124th General Assembly, is hereby repealed.

SECTION 137.15. That Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly be amended to read as follows:

Sec. 2. Sections ~~1742.42~~, 3901.49, and 3901.50 of the Revised Code are hereby repealed, effective ~~ten years after the effective date of this act~~ February 9, 2014. The repeal of these sections shall apply only to contracts and policies that are delivered, issued for delivery, or renewed in this state on or after that date, and to plans of self-insurance that are established or modified in this state on or after that date.

SECTION 137.16. That existing Section 2 of Am. Sub. H.B. 71 of the 120th General Assembly is hereby repealed.

SECTION 137.17. That Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly be amended to read as follows:

Sec. 6. Section 1751.64 of the Revised Code is hereby repealed, effective February 9, ~~2004~~ 2014. The repeal of that section shall apply only to contracts that are delivered, issued for delivery, or renewed in this state on or after that date.

SECTION 137.18. That existing Section 6 of Am. Sub. S.B. 67 of the 122nd General Assembly is hereby repealed.

SECTION 137.19. Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly as amended by Am. Sub. H.B. 94 of the 124th General Assembly is hereby repealed.

SECTION 137.20. Section 3 of Sub. H.B. 403 of the 123rd General Assembly is hereby repealed.

SECTION 137.21. Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly is hereby repealed.

SECTION 137.22. * (A) Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as amended by Am. Sub. H.B. 768 of the 123rd General Assembly, is hereby repealed.

(B) Notwithstanding the repeal of Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, prescribed in division (A) of this section, a school district that is participating in the School Building Assistance Expedited Local Partnership Program under section 3318.36 of the Revised Code may apply as local resources under that program those expenditures described in Section 3 of Am. Sub. S.B. 272 of the 123rd General Assembly, as subsequently amended, if, and only if, all the following conditions are satisfied:

(1) The school district's project was conditionally approved by the Ohio School Facilities Commission and subsequently approved by the Controlling Board under division (D)(1) of section 3318.36 of the Revised Code not later than one hundred eighty days after the effective date of this section.

(2) The school district board of education and the Commission entered into an agreement under section 3318.36 of the Revised Code, not later than one hundred eighty days after the effective date of this section, for the district to acquire the discrete part of the project under the Expedited Local Partnership Program, as identified by the school district board under division (D)(1) of section 3318.36 of the Revised Code.

SECTION 137.23. That Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly, is hereby repealed.

SECTION 137.24. That Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly is hereby repealed. The intent of this repeal is to remove the limitation upon the continued existence of sections 4779.01 to 4779.13, 4779.15 to 4779.33, and 4779.99 of the Revised Code. This intent is not affected by the rule of statutory interpretation contained in section 1.57 of the Revised Code.

SECTION 137.25. That Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly is hereby repealed.

SECTION 138. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT AGREEMENT FUND TO THE GENERAL REVENUE FUND

Notwithstanding section 183.02 of the Revised Code, on or before June 30, 2004, the Director of Budget and Management may transfer up to \$242,800,000 to the General Revenue Fund from the Tobacco Master Settlement Agreement Fund (Fund 087), as provided in divisions (A) and (B) of this section:

(A) Up to \$120,000,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Tobacco Use Prevention and Cessation Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

(B) Up to \$122,800,000 of the revenue that otherwise would be transferred from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund (Fund N87) shall instead be transferred to the General Revenue Fund. Of the tobacco revenue that is credited to the Tobacco Master Settlement Agreement Fund in fiscal year 2004, the share that is determined pursuant to section 183.02 of the Revised Code to be the amount to be transferred by the Director of Budget and Management from the Tobacco Master Settlement Agreement Fund to the Education Facilities Trust Fund shall be reduced by the amount that is transferred from the Tobacco Master Settlement Agreement Fund to the General Revenue Fund in accordance with this division.

SECTION 139. TEMPORARY ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS

(A) On or before the seventh day of each month of the period July 2003

through June 2005, the Tax Commissioner shall determine and certify to the Director of Budget and Management the amount to be credited, by tax, during that month to the Local Government Fund, to the Library and Local Government Support Fund, and to the Local Government Revenue Assistance Fund, respectively, pursuant to divisions (B), (C), and (D) of this section.

(B) Notwithstanding section 5727.84 of the Revised Code to the contrary, for the period July 1, 2003, through June 30, 2005, no amounts shall be credited to the Local Government Fund or to the Local Government Revenue Assistance Fund from the kilowatt hour tax, and such amounts that would have otherwise been required to be credited to such funds shall instead be credited to the General Revenue Fund. Notwithstanding sections 5727.45, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, for each month in the period July 1, 2003, through June 30, 2005, from the public utility excise, corporate franchise, sales, use, and personal income taxes collected;

(1) An amount shall first be credited to the Local Government Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section.

(2) An amount shall next be credited to the Local Government Revenue Assistance Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section.

(3) An amount shall next be credited to the Library and Local Government Support Fund that equals the amount credited to that fund from that tax according to the schedule in division (C) of this section. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2004 pursuant to division (C) of this section, the amount credited in fiscal year 2003 shall be before the transfer made from the Library and Local Government Support Fund to the OPLIN Technology Fund under Section 70 of Am. Sub. H.B. 94 of the 124th General Assembly. For purposes of determining the amount to be credited to the Library and Local Government Support Fund in each month of fiscal year 2005 pursuant to division (C) of this section, the amount credited in fiscal year 2004 shall be before any transfer required to be made from the Library and Local Government Support Fund to the OPLIN Technology Fund.

(C) The amounts shall be credited from each tax to each respective fund as follows:

(1) In July 2003, one hundred per cent of the amount credited in July 2002; in July 2004, one hundred per cent of the amount credited in July

2003;

(2) In August 2003, one hundred per cent of the amount credited in August 2002; in August 2004, one hundred per cent of the amount credited in August 2003;

(3) In September 2003, one hundred per cent of the amount credited in September 2002; in September 2004, one hundred per cent of the amount credited in September 2003;

(4) In October 2003, one hundred per cent of the amount credited in October 2002; in October 2004, one hundred per cent of the amount credited in October 2003;

(5) In November 2003, one hundred per cent of the amount credited in November 2002; in November 2004, one hundred per cent of the amount credited in November 2003;

(6) In December 2003, one hundred per cent of the amount credited in December 2002; in December 2004, one hundred per cent of the amount credited in December 2003;

(7) In January 2004, one hundred per cent of the amount credited in January 2003; in January 2005, one hundred per cent of the amount credited in January 2004;

(8) In February 2004, one hundred per cent of the amount credited in February 2003; in February 2005, one hundred per cent of the amount credited in February 2004;

(9) In March 2004, one hundred per cent of the amount credited in March 2003; in March 2005, one hundred per cent of the amount credited in March 2004;

(10) In April 2004, one hundred per cent of the amount credited in April 2003; in April 2005, one hundred per cent of the amount credited in April 2004;

(11) In May 2004, one hundred per cent of the amount in division (C)(11)(a) of this section; in May 2005, one hundred per cent of the amount in division (C)(11)(b) of this section;

(a) The amount credited in May 2003, less any amount reduced pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly and as amended by Am. Sub. H.B. 390 of the 124th General Assembly;

(b) The amount credited in May 2004.

(12) In June 2004, one hundred per cent of the amount in division (C)(12)(a) of this section, less any reduction required under division (D)(1) of this section; in June 2005, one hundred per cent of the amount in division

(C)(12)(b) of this section, less any reduction required under division (D)(2) of this section;

(a) The amount credited in June 2003 before any reduction made pursuant to division (D)(4) of Section 140 of Am. Sub. H.B. 94 of the 124th General Assembly, as amended by Am. Sub. H.B. 405 of the 124th General Assembly and as amended by Am. Sub. H.B. 390 of the 124th General Assembly;

(b) The amount credited in June 2004.

(D) The Tax Commissioner shall do each of the following:

(1) By June 7, 2004, the commissioner shall subtract the amount calculated in division (D)(1)(b) of this section from the amount calculated in division (D)(1)(a) of this section. If the amount in division (D)(1)(a) of this section is greater than the amount in division (D)(1)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2004. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only if, and according to the proportion by which, such fund contributed to the result that the amount in division (D)(1)(a) of this section exceeds the amount in division (D)(1)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2003 through May 2004;

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from July 2003 through May 2004, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(2) By June 7, 2005, the commissioner shall subtract the amount calculated in division (D)(2)(b) of this section from the amount calculated in division (D)(2)(a) of this section. If the amount in division (D)(2)(a) of this section is greater than the amount in division (D)(2)(b) of this section, then such difference shall be subtracted from the total amount of income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund in June 2005. An amount shall be subtracted from income tax revenue credited to the Local Government Fund, the Local Government Revenue Assistance Fund, or the Library and Local Government Support Fund only

if, and according to the proportion by which, such fund contributed to the result that the amount in division (D)(2)(a) of this section exceeds the amount in division (D)(2)(b) of this section.

(a) The sum of all money credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005;

(b) The sum of all money that would have been credited to the Local Government Fund, the Local Government Revenue Assistance Fund, and the Library and Local Government Support Fund from June 2004 through May 2005, if sections 5727.45, 5727.84, 5733.12, 5739.21, 5741.03, and 5747.03 of the Revised Code were in effect during this period.

(3) On the advice of the Tax Commissioner, during any month other than June 2004 or June 2005 of the period July 1, 2003, through July 31, 2005, the Director of Budget and Management may reduce the amounts that are to be otherwise credited to the Local Government Fund, Local Government Revenue Assistance Fund, or Library and Local Government Support Fund in order to accomplish more effectively the purposes of the adjustments in divisions (D)(1) and (2) of this section. If the respective calculations made in June 2004 and June 2005 pursuant to divisions (D)(1) and (2) of this section indicate that excess reductions had been made during the previous months, such excess amounts shall be credited, as appropriate, to the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund.

(E) Notwithstanding any other provision of law to the contrary, the total amount credited to each fund in each month during the period July 2003 through June 2005 shall be distributed by the tenth day of the immediately succeeding month in the following manner:

(1) Each county undivided local government fund shall receive a distribution from the Local Government Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(2) Each municipality receiving a direct distribution from the Local Government Fund shall receive a distribution based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(3) Each county undivided local government revenue assistance fund shall receive a distribution from the Local Government Revenue Assistance Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(4) Each county undivided library and local government support fund shall receive a distribution from the Library and Local Government Support Fund based on its proportionate share of the total amount received from the fund in such respective month for the period July 1, 2002, through June 30, 2003.

(F) For the 2003, 2004, and 2005 distribution years, the Tax Commissioner is not required to issue the certifications otherwise required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of the Revised Code, but shall provide to each county auditor by the twentieth day of July 2003, July 2004, and July 2005 an estimate of the amounts to be received by the county in the ensuing year from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund pursuant to this section and any pertinent section of the Revised Code. The Tax Commissioner may choose to report to each county auditor a revised estimate of the 2003, 2004, or 2005 distributions at any time during the period July 1, 2003, through July 31, 2005.

(G) During the period July 1, 2003, through July 31, 2005, the Director of Budget and Management shall issue those directives to state agencies that are necessary to ensure that the appropriate amounts are distributed to the Local Government Fund, to the Local Government Revenue Assistance Fund, and to the Library and Local Government Support Fund.

SECTION 140. * CAPITAL APPROPRIATION TO SFC

All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the School Building Program Assistance Fund (Fund 032), created under section 3318.25 of the Revised Code, derived from the proceeds of obligations heretofore and herein authorized to pay the cost of facilities for a system of common schools throughout the state for the period beginning July 1, 2002, and ending June 30, 2004. The appropriation shall be in addition to any other appropriation for this purpose.

			Appropriations
SFC SCHOOL FACILITIES COMMISSION			
CAP-770	School Building Program Assistance	\$	122,800,000
Total School Facilities Commission		\$	122,800,000
TOTAL School Building Program Assistance Fund		\$	122,800,000

* SCHOOL BUILDING PROGRAM ASSISTANCE

The foregoing appropriation item CAP-770, School Building Program Assistance, shall be used by the School Facilities Commission to provide funding to school districts that receive conditional approval from the

Commission pursuant to Chapter 3318. of the Revised Code. Expenditures from appropriations contained in this section may be accounted for as though made for the fiscal year 2003-2004 biennium in H.B. 675 of the 124th General Assembly. The School Facilities Commission shall not disburse any of the appropriations made in this section until after April 1, 2004.

*** BOND ISSUANCE AUTHORITY**

The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with the provisions of Section 2n of Article VIII, Ohio Constitution, and Chapter 151. and particularly sections 151.01 and 151.03 of the Revised Code, original obligations in an aggregate principal amount not to exceed \$123,000,000, in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. The authorized obligations shall be issued, subject to applicable constitutional and statutory limitations, to pay the costs to the state of previously authorized capital facilities and the capital facilities authorized in this section for the School Building Program Assistance Fund pursuant to Chapter 3318. of the Revised Code.

SECTION 141. (A) On the effective date of this section, the following programs administered by the Ohio School Facilities Commission are terminated:

(1) The Short-Term Loan Program established by Section 10.01 of Am. Sub. H.B. 282 of the 123rd General Assembly;

(2) The Emergency School Repair Program codified in section 3318.35 of the Revised Code.

No new school district shall be served under any of these programs. The Commission may continue serving school districts that were receiving assistance under any of these programs before the effective date of this section in accordance with terms and agreements in effect on that date.

(B) On March 31, 2004, the Disability Access Program established by Section 50.15 of Am. Sub. H.B. 215 of the 122nd General Assembly, Section 5 of Am. Sub. S.B. 102 of the 122nd General Assembly, as subsequently amended, Section 10 of Am. Sub. H.B. 282 of the 123rd General Assembly, as subsequently amended, Section 102.01 of Am. Sub.

H.B. 94 of the 124th General Assembly, and Section 5 of Am. Sub. H.B. 524 of the 124th General Assembly is terminated.

No new school district shall be served under this program. The Commission may continue serving school districts that were receiving assistance under this program before the effective date of this section in

accordance with terms and agreements in effect on that date.

On April 1, 2004, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unencumbered and unallotted balance in appropriation item CAP-777, Disability Access Projects, to appropriation item CAP-662, Public School Buildings. The amount transferred from CAP-777, Disability Access Projects, shall be used to fund classroom facilities projects in accordance with Chapter 3318. of the Revised Code.

SECTION 142. (A) As used in this section, "pharmacy provider" has the same meaning as in rule 5101:3-9-01 of the Administrative Code.

(B) The Department of Job and Family Services shall establish the Medication Management Incentive Payment Program for state fiscal years 2004 and 2005 for pharmacy services provided Medicaid recipients other than those who reside in a nursing facility or an intermediate care facility for the mentally retarded. Any pharmacy provider that serves Medicaid recipients may elect to participate in the Program in one or both of the state fiscal years that it is in effect.

(C) The Department of Job and Family Services shall do the following:

(1) Determine the statewide monthly average cost of providing pharmacy services to Medicaid recipients other than those who reside in a nursing home or an intermediate care facility for the mentally retarded during the last quarter of the biennium ending June 30, 2003;

(2) Establish a reimbursement rate for pharmacy services provided under the Medication Management Incentive Payment Program for the first quarter of the biennium ending June 30, 2005.

(D) Under the Medication Management Incentive Payment Program:

(1) If a participating pharmacy provider's average monthly cost of providing pharmacy services to a number of Medicaid recipients specified by the Department of Job and Family Services in a quarter after the first quarter of the biennium ending June 30, 2005, is greater than or equal to the statewide monthly average cost of providing pharmacy services during the last quarter of the biennium ending June 30, 2003, the pharmacy provider shall be reimbursed at the rate established by the Department for the first quarter of the biennium ending June 30, 2005.

(2) If a participating pharmacy provider's average monthly cost of providing pharmacy services to the number of Medicaid recipients specified by the Department of Job and Family Services in a quarter after the first quarter of the biennium ending June 30, 2005, is less than the statewide monthly average cost of providing pharmacy services during the last quarter

of the biennium ending June 30, 2003, the pharmacy provider shall be reimbursed at an enhanced rate established by the Department.

(E) A pharmacy provider that elects to participate in the program may achieve a reduction in its average monthly cost for providing pharmacy services to Medicaid recipients by providing consulting services to the physicians who prescribe drugs to the recipient. These consulting services may include recommendations for eliminating unnecessary and duplicative drug therapies, modifying inefficient drug regimens, and implementing safe and cost-effective drug therapies.

(F) The Department of Job and Family Services shall adopt, in accordance with Chapter 119. of the Revised Code, any rule it considers necessary to develop and administer the Medication Management Incentive Payment Program. The rules may provide for compensation for physicians who consult with pharmacy providers that participate in the program.

SECTION 143. OFFICE OF QUALITY SERVICES FUND TRANSFERS

Notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer any remaining amounts of cash from the following specified obsolete fund to the General Revenue Fund within thirty days after the effective date of this section: Quality Services (General Services Fund 4C1). The amount of such transfer to the General Revenue Fund is hereby appropriated to General Revenue Fund appropriation item 042-409, Commission Closures.

SECTION 144. TRANSFER FROM BOARD OF TAX APPEALS

Notwithstanding any other provision of law to the contrary, on July 31, 2003, or as soon thereafter as possible, the Director of Budget and Management shall transfer any remaining amounts of cash from the following specified obsolete fund to the General Revenue Fund: Reproduction of Decisions (General Services Fund 439).

SECTION 145. FEDERAL JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003

(A) The enhanced federal medical assistance percentage (FMAP) rate is authorized pursuant to the Federal Jobs and Growth Relief Reconciliation Act of 2003 for the third and fourth calendar quarters of federal fiscal year 2003 and the first, second, and third calendar quarters of federal fiscal year 2004. During this period, the reimbursement rate for all Medicaid service

expenditures paid by state or local entities shall be the non-enhanced rate.

(B) During the quarters that the enhanced FMAP rate is authorized pursuant to the Federal Jobs and Growth Relief Reconciliation Act of 2003, when drawing FMAP to the state treasury for Medicaid services paid by the Department of Job and Family Services or other state or local entities, the Department of Job and Family Services shall deposit the amount of federal revenue attributable to the enhanced FMAP that is being made available to the Federal Fiscal Relief Fund, which is hereby created in the state treasury. The disposition of cash from this fund shall occur as follows:

(1) On a schedule to be determined by the Office of Budget and Management, the Director of Budget and Management shall make cash transfers to the Medicaid Reserve Fund, which is hereby created in the state treasury. The total amount transferred shall be \$18,611,156 in state fiscal year 2004 and \$90,851,972 in state fiscal year 2005. The Director of Job and Family Services shall make requests to the Director of Budget and Management as necessary to increase the appropriation in appropriation item 600-525, Health Care/Medicaid. The Director of Budget and Management shall transfer the state share of such amounts from the Medicaid Reserve Fund to the General Revenue Fund. The transferred amount plus the federal share associated with this amount is hereby appropriated. The Department of Job and Family Services shall use this appropriation authority to pay claims for Medicaid services.

(2) After the amounts in division (B)(1) of this section have been transferred, the Director of Budget and Management shall transfer the remainder of cash in the Federal Fiscal Relief Fund to the General Revenue Fund on a schedule to be determined by the Office of Budget and Management.

SECTION 146. (A) In September of 2003, each school district that has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall administer a half-length practice version of each Ohio Graduation Test prescribed by division (B) of section 3301.0710 of the Revised Code to all ninth grade students enrolled in the district. Each district shall determine the dates, times, and method of administering the tests to students and shall score the tests.

(B) Each district declared to be in a state of academic emergency pursuant to section 3302.03 of the Revised Code shall determine for each high school in the district whether the school shall be required to provide intervention services in accordance with this division to any students who

took the tests. In determining which high schools shall provide intervention services based upon available funding, the district shall consider each school's graduation rate and scores on the practice tests.

Each high school selected to provide intervention services under this division shall provide intervention services to students whose practice test results indicate that they are failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio Graduation Tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

SECTION 147. (A) As used in this section, "nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the Director of Health for purposes of the Medicaid Program and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a skilled nursing facility by the Director of Health for purposes of the Medicare Program.

(B) The Director of Health shall request from the Secretary of the United States Department of Health and Human Services approval to develop an alternative regulatory procedure for nursing facilities subject to federal regulation. If the Secretary gives approval, the Director shall convene the Nursing Facility Regulatory Reform Task Force.

(C) The Director of Health shall serve as chair of the Task Force. The Director of Aging, the Director of Job and Family Services, the State Long-Term Care Ombudsman, or persons they designate and a member of the Governor's staff designated by the Governor shall serve on the Task Force. The Director of Health shall appoint the following individuals to serve on the Task Force:

- (1) Two representatives of the Ohio Health Care Association;
- (2) Two representatives of the Association of Ohio Philanthropic Homes and Housing for the Aging;
- (3) Two representatives of the Ohio Academy of Nursing Homes;
- (4) Two representatives of the American Association of Retired Persons (AARP);
- (5) Two representatives of Families for Improved Care;
- (6) A representative from the Ohio Association of Regional Long-Term

Care Ombudsman Programs;

(7) A representative of the 1199 League of Registered Nurses;

(8) A representative of the American Federation of State, County, and Municipal Employees.

(D) Except to the extent that service on the task force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the State for expenses incurred in carrying out their duties on the Task Force. The Scripps Gerontology Center at Miami University shall provide technical and support services for the Task Force.

(E) The Task Force shall do all of the following:

(1) Review the effectiveness of current regulatory procedures for nursing facilities regarding the quality of care and quality of life of nursing facility residents;

(2) Develop recommendations for improved regulatory procedures for nursing facilities to improve the quality of care and quality of life of nursing facility residents;

(3) Evaluate potential effects on nursing facility residents of elimination of components of the Certificate of Need program pertaining to long-term care facilities;

(4) Develop possible demonstration projects to present the potential of proposed changes to the regulatory procedure to increase the quality of care and the quality of life of nursing facility residents.

(F) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives and to the President and Minority Leader of the Senate. The report shall explain any changes to the Revised Code required to implement the recommendations. On submission of the recommendations, the Task Force shall cease to exist.

(G) At the request of the General Assembly by adoption of a joint resolution, the Director of Health shall apply to the Secretary of the United States Department of Health and Human Services for a waiver to implement the recommendations of the Task Force.

SECTION 148. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that the provisions of this act are general laws created in the exercise of the state's police power, arising out of matters of statewide concern, and are designed for the health, safety, and welfare of contractors, their employees, and the

public.

SECTION 149. In amending sections 121.084, 4104.41, 4104.44, 4104.45, and 4104.46 (4104.48), in enacting new section 4104.46 and section 4104.47, and in repealing and re-enacting sections 4104.42 and 4104.43 of the Revised Code, it is the intent of the General Assembly that power, refrigerating, hydraulic, heating and liquefied petroleum gas, oxygen, and other gaseous piping systems will continue to be inspected as part of the building permit process, enforcement of plumbing and mechanical building codes, and occupancy certification. The purpose of this legislative action is solely to eliminate duplicative inspection personnel and fees.

SECTION 150. * The Hemophilia Advisory Council established under section 3701.145 of the Revised Code, renumbered as section 3701.0210 of the Revised Code by this act, is hereby abolished.

SECTION 151. * Upon the taking effect of this section, the Hazardous Waste Facility Board is abolished.

All of the rules adopted by the Hazardous Waste Facility Board are abolished on that date. The Director of the Legislative Service Commission shall remove the rules from the Administrative Code as if they had been rescinded.

On and after the effective date of this section and until the Director of Environmental Protection adopts rules that eliminate references to the Hazardous Waste Facility Board, whenever the Hazardous Waste Facility Board or Board, when "Board" refers to the Hazardous Waste Facility Board, is referred to in a rule, the reference shall be deemed to refer to the Environmental Protection Agency or the Director of Environmental Protection, whichever is appropriate. As expeditiously as possible after the effective date of this section, the Director of Environmental Protection shall adopt rules eliminating references to the Hazardous Waste Facility Board.

Permits or modifications issued by the Hazardous Waste Facility Board under section 3734.05 of the Revised Code as that section existed prior to its amendment by this act shall continue in effect as if the Director had issued the permits or modifications under section 3734.05 of the Revised Code after the effective date of its amendment by this act. Any application pending before the Hazardous Waste Facility Board on the effective date of this section shall be transferred to the Environmental Protection Agency for

approval or disapproval by the Director. All records, files, and other documents of the Hazardous Waste Facility Board shall be transferred to the Environmental Protection Agency.

SECTION 152. (A) There is hereby created the Ohio Autism Task Force consisting of the following members:

(1) All of the following persons to be appointed by the Governor:

(a) A person diagnosed with autism;

(b) Four persons who are parents of children diagnosed with autism;

(c) A special education administrator of an Ohio school district;

(d) A representative of the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities;

(e) A representative of the Ohio Developmental Disabilities Council;

(f) A representative of the Autism Society of Ohio;

(g) A developmental pediatrician who is a member of the Ohio Association of Pediatricians;

(h) Two representatives from private schools in Ohio that provide special education services to children diagnosed with autism;

(i) Two representatives from Ohio hospitals that provide services to children diagnosed with autism.

(2) Two members of the House of Representatives, one from the majority party and one from the minority party, appointed by the Speaker of the House of Representatives;

(3) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President of the Senate;

(4) The Director of Mental Retardation and Developmental Disabilities or the Director's designee;

(5) The Director of Job and Family Services or the Director's designee;

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

(7) The Director of Health or the Director's designee.

(B) All appointments and designations to the Task Force shall be made not later than thirty days after the effective date of this section. Any vacancy that occurs on the Task Force shall be filled in the same manner as the original appointment. The members of the Task Force shall serve without compensation.

(C) The initial meeting of the Task Force shall be held not later than sixty days after the effective date of this section. At its initial meeting, the Task Force shall elect from its membership a chairperson and other officers it considers necessary. Thereafter, the Task Force shall meet on the call of

the chairperson.

(D) The Department of Mental Retardation and Developmental Disabilities shall provide meeting facilities and other support as necessary for the Task Force.

(E) The Task Force shall study and make recommendations regarding both of the following:

(1) The growing incidence of autism in Ohio;

(2) Ways to improve the delivery in this state of autism services.

(F) Not later than one year after the effective date of this section, the Task Force shall submit a written report of its recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(G) On submission of its report, the Task Force shall cease to exist.

SECTION 153. (A) There is hereby created the Task Force to Eliminate Health Services Duplication. The Director of Administrative Services shall serve as chairperson. The Directors of Aging, Alcohol and Drug Addiction Services, Health, Mental Health, Mental Retardation and Developmental Disabilities, and Budget and Management, and the Executive Director of the Commission on Minority Health, or persons they designate, shall serve on the Task Force. The Commission on Dispute Resolution and Conflict Management shall provide technical and support services for the Task Force.

(B) Except to the extent that service on the Task Force is part of their employment, Task Force members shall serve without compensation and shall not be reimbursed by the state for expenses incurred in carrying out their duties on the Task Force.

(C) The Task Force shall do all of the following:

(1) Evaluate the feasibility of combining all or parts of the Department of Aging, the Department of Alcohol and Drug Addiction Services, the Commission on Minority Health, the Department of Health, the Department of Mental Health, and the Department of Mental Retardation and Developmental Disabilities to eliminate duplication of services;

(2) Evaluate the feasibility of establishing a central procurement point for basic operational services associated with each department, including human resources, training, research, legislative information, fiscal management, and public information.

(D) Not later than March 31, 2004, the Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leaders of the House of Representatives and to the President and Minority Leader of

the Senate. On submission of its report, the Task Force shall cease to exist.

SECTION 154. The Parole Board shall review the sentences of prisoners who are confined in state correctional institutions and who were sentenced under the Felony Sentencing Law that was in effect prior to July 1, 1996, to determine the appropriateness of those sentences and to determine whether the length of any of those sentences should be adjusted. The Parole Board shall conduct this review in cooperation with the Department of Rehabilitation and Correction. The Parole Board shall prepare a report that contains its findings and makes recommendations regarding further action. Not later than one year after the effective date of this section, the Parole Board shall submit the report to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the chair of the House Criminal Justice Committee, and the chair of the Senate Judiciary Committee on Criminal Justice.

As used in this section, "state correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

SECTION 155. As used in this section, "qualified property" means real and tangible personal property that satisfies the qualifications for tax exemption under the terms of section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code.

Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the owner of the property, at any time on or before twelve months after the effective date of this section, may file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all unpaid taxes, penalties, and interest on the property be abated.

The application shall be made on the form prescribed by the Tax Commissioner under section 5715.27 of the Revised Code and shall list the name of the county in which the property is located; the property's legal description; its taxable value; the amount in dollars of the unpaid taxes, penalties, and interest; the date of acquisition of title to the property; the use of the property during any time that the unpaid taxes accrued; and any other information required by the Tax Commissioner. The county auditor shall supply the required information upon request of the applicant.

Upon request of the applicant, the county treasurer shall determine if all taxes, penalties, and interest that became a lien on the qualified property

before it first was used for an exempt purpose and all special assessments charged against the property have been paid in full. If so, the county treasurer shall issue a certificate to the applicant stating that all such taxes, penalties, interest, and assessments have been paid in full. Prior to filing the application with the Tax Commissioner, the applicant shall attach the county treasurer's certificate to it. The Tax Commissioner shall not consider an application filed under this section unless such a certificate is attached to it.

Upon receipt of the application and after consideration of it, the Tax Commissioner shall determine if the applicant meets the qualifications set forth in this section, and if so shall issue an order directing that the property be placed on the tax exempt list of the county and that all unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption described in section 3313.44, 5709.07, 5709.08, 5709.10, 5709.12, 5709.121, or 5709.14 of the Revised Code be abated. If the Tax Commissioner finds that the property is not now being so used or is being used for a purpose that would foreclose its right to tax exemption, the Tax Commissioner shall issue an order denying the application.

If the Tax Commissioner finds that the property is not entitled to tax exemption and to the abatement of unpaid taxes, penalties, and interest for any of the years for which the owner claims an exemption or abatement, the Tax Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law.

The Tax Commissioner may apply this section to any qualified property that is the subject of an application for exemption pending before the Tax Commissioner on the effective date of this section, without requiring the property owner to file an additional application. The Tax Commissioner also may apply this section to any qualified property that is the subject of an application for exemption filed on or after the effective date of this section and on or before twelve months after that effective date, even though the application does not expressly request abatement of unpaid taxes.

SECTION 156. (A) The amendment, repeal and reenactment, or enactment by this act of sections 718.01, 718.02, 718.03, 718.05, 718.051, and 718.121 of the Revised Code apply to taxable years beginning on or after January 1, 2004.

(B) The amendment by this act of sections 718.11, 5717.011, and 5717.03 of the Revised Code apply to matters relating to taxable years beginning on or after January 1, 2004.

(C) The credit allowed by section 718.021 of the Revised Code applies

to qualifying losses sustained in taxable years beginning on or after January 1, 2004.

SECTION 157. Not later than thirty days after the effective date of this section, the Governor, with the advice and consent of the Senate, shall make initial appointments to the Ohio Business Gateway Steering Committee created in section 5703.56 of the Revised Code. Terms of office shall be as prescribed in section 5703.56 of the Revised Code.

SECTION 158. (A) The amendment by this act of sections 165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.012, 5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5741.01, 5741.02, and 5741.121 of the Revised Code apply on and after July 1, 2003.

(B) The amendment by this act of sections 5739.021, 5739.022, 5739.023, and 5739.026 of the Revised Code apply on and after January 1, 2004.

(C) The amendment by this act of sections 5741.021, 5741.022, and 5741.023 of the Revised Code apply on and after January 1, 2006.

(D) The amendment by this act of section 5739.10 of the Revised Code pertaining to the temporary 6% excise tax levied upon the privilege of engaging in the business of making retail sales applies on and after July 1, 2003. The amendment by this act of that section pertaining to the elimination of the exemption for retail sales under 16¢ applies on and after January 1, 2006.

(E) The repeal and re-enactment by this act of section 5739.034 of the Revised Code applies on and after July 1, 2003.

SECTION 159. Sections 107.32 and 107.33 of the Revised Code shall apply to all state institutional facilities, as defined in section 107.32 of the Revised Code, that were in operation on or after January 1, 2003.

SECTION 160. The Legislative Office of Education Oversight shall conduct a review of partnership agreements between a Head Start provider and a provider of child care or day care services. In conducting this review, the Office shall analyze the following:

(A) The impact on literacy-readiness for children receiving services as a result of such agreements;

(B) The costs and benefits of such agreements to both participant children and the providers who are parties to the agreements. In analyzing the costs and benefits of such agreements, the Office shall examine the financial costs and benefits to providers who are parties to the agreements and to families of participant children. Additionally, the Office shall examine intangible costs and benefits to participant children, such as intellectual, emotional, and physical benefits or detriments caused by service under such agreements.

(C) The operation of the agreements. In analyzing the operation of the agreements, the Office shall review how the agreements work, how well the agreements work, what components are included in the agreements, and whether the agreements are unique to the providers who are parties to the agreements or standardized across the state or within a local region.

(D) Whether there is an administrative entity, such as a county department of job and family services, that oversees the implementation of a particular agreement. If there is such an entity that oversees an agreement, the Office shall examine the degree to which oversight is performed and what overhead costs the administrative entity incurs in overseeing such agreements.

The Office shall submit the final results of this study to the General Assembly not later than December 31, 2004.

SECTION 161. (A) Within one hundred twenty days after the effective date of this section, the Director of Agriculture, the Director of Rehabilitation and Correction, and the Director of Youth Services shall develop a plan to optimize the quantity and use of food grown and harvested in state correctional institutions or secure facilities operated by the Department of Youth Services in the most cost-effective manner. The plan shall include methods to increase production at farms operated by either department and shall include methods to ensure that the highest possible percentage of food consumed at state correctional institutions and secure facilities operated by the Department of Youth Services is food grown and harvested at a state correctional institution or secure facility operated by the Department of Youth Services.

(B) The plan shall consider possible amendments to the Revised Code, amendments to the Administrative Code, administrative changes, financial strategies, strategies to obtain a reliable workforce, and any other means to optimize the quantity and use of food of that nature in state correctional institutions and secure facilities operated by the Department of Youth Services.

The plan and its findings, conclusions, and any recommendations and proposed legislation shall be submitted to the Speaker of the House of Representatives, the President of the Senate, the Governor, the Director of Rehabilitation and Correction, and the Director of Youth Services.

(C) As used in this section, "state correctional institution" has the same meaning as in section 2967.01 of the Revised Code.

SECTION 162. The State Racing Commission shall conduct a performance study of the Commission based upon its current level of full-time employees. The Commission, not later than January 1, 2004, shall make recommendations to the Governor and the General Assembly regarding possible staff reductions and ways to improve the efficiency of the Commission's operations.

SECTION 163. For any metropolitan housing authority that is in existence when division (D) of section 3735.27 of the Revised Code, as amended by this act, takes effect, and to which that division applies, the board of county commissioners shall appoint a member to fill the next vacancy that occurs due to the expiration of the term of a member appointed by the chief executive officer of the most populous city in the metropolitan housing authority district. Thereafter, any vacancy in that position shall be filled by an appointee of the board of county commissioners and all other vacancies shall be filled in the manner provided for the original appointments.

SECTION 164. The amendment by this act of section 5747.02 of the Revised Code applies to taxable years ending on or after the effective date of this section.

SECTION 165. (A) If a court finds that any provisions within sections 1346.04 to 1346.10 of the Revised Code conflict and cannot be harmonized with those within sections 1346.01 to 1346.03 of the Revised Code, provisions of sections 1346.01 to 1346.03 of the Revised Code shall control.

(B) If any provision within sections 1346.04 to 1346.10 of the Revised Code causes sections 1346.01 to 1346.03 of the Revised Code to no longer constitute a qualifying or model statute, as those terms are defined in the Master Settlement Agreement entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers, the provision in question shall be invalid. If any part of sections 1346.04 to 1346.10 of the

Revised Code is for any reason held to be invalid, unlawful, or unconstitutional, the remaining portions of those sections shall remain valid.

SECTION 166. The first report of stamping agents required by division (A) of section 1346.07 of the Revised Code shall be due on the last day of the month following the month in which this act becomes effective. The first certifications of a tobacco product manufacturer under division (A) of section 1346.05 of the Revised Code shall be due forty-five days after the effective date of this act. The directory established in division (B) of section 1346.05 of the Revised Code shall be published within ninety days after the effective date of this act.

SECTION 167. (A) For the purposes of section 321.24, as amended by this act, and of section 5703.80 of the Revised Code, as enacted by this act, the Tax Commissioner may determine the property tax administrative fee for fiscal year 2004 at any time after the day this act becomes law. One-half of the amount of the fee for that year may be deducted from each of the payments made in the fiscal year under division (F) of section 321.24 of the Revised Code, or the full amount of the fee for the year may be deducted from the second of those payments made in the fiscal year. The Director of Budget and Management may transfer the fee from the General Revenue Fund to the Property Tax Administration Fund created under section 5703.80 of the Revised Code, as enacted by this act, for fiscal year 2004 in three equal payments on November 1, 2003, February 1, 2004, and May 1, 2004.

(B) Within thirty days after the Tax Commissioner determines the property tax administrative fee for fiscal year 2004 under division (A) of this section, the Tax Commissioner shall notify the Department of Education of the amount by which each school district's reimbursement made under division (F) of section 321.24 of the Revised Code, as amended by this act, is to be reduced for the Property Tax Administration Fund.

SECTION 168. (A) As used in this section, "housing officer" has the same meaning as in section 3735.65 of the Revised Code.

(B) Any complaint filed with the tax commissioner on or after the effective date of this section challenging the continued exemption of property granted an exemption by a housing officer under section 3735.67 of the Revised Code shall be certified by the tax commissioner to the

housing officer. The housing officer shall proceed to hear and determine such complaint in accordance with division (E) of section 3735.67 of the Revised Code. The commissioner may hear and determine any such complaint filed with the commissioner before the effective date of this section or may certify such complaint to the housing officer for hearing and determination.

(C) The filing date of any complaint certified to a housing officer under this section shall be considered to be the date on which the complaint was filed with the tax commissioner.

SECTION 169. Notwithstanding the date by which determinations must be made under divisions (D), (G), and (H) of section 5727.84 of the Revised Code, the Tax Commissioner, as soon as is practicable after the effective date of that section as amended by this act, shall redetermine electric company tax value loss, fixed-rate levy loss, and fixed-sum levy loss for taxing districts described in division (D)(3) of that section on the basis of such amendments, and make the certification required by divisions (J) and (K) of that section. On or before July 31, 2003, or as soon as is practicable after the effective date of section 5727.84 of the Revised Code as amended by this act, the Department of Education shall make the computations required under section 5727.85 of the Revised Code on the basis of such redeterminations. Such redeterminations and computations apply for the purpose of computing payments made to taxing districts under sections 5727.85 and 5727.86 of the Revised Code during state fiscal year 2004 and subsequent fiscal years, as otherwise provided in those sections.

SECTION 170. The amendment by this act of sections 5733.051, 5733.057, and 5733.06 of the Revised Code applies to tax year 2004 and to each tax year thereafter.

SECTION 171. (A)(1) There is hereby created the Legislative Audit Commission Study Committee, to be composed of four members. The committee shall study how other states provide for a legislative auditing function within their respective legislative branches of government and shall make recommendations on how Ohio should address the legislative auditing function and on the funding levels necessary to accomplish the objectives recommended. The President of the Senate shall appoint to the committee two members of the Senate, each of whom shall be a member of a different

political party. The Speaker of the House of Representatives shall appoint to the committee two members of the House of Representatives, each of whom shall be a member of a different political party.

(2) All vacancies in the membership of the committee shall be filled in the same manner prescribed for original appointments to the committee.

(3) The members of the committee shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(B) The members of the Legislative Audit Commission Study Committee shall select a chairperson from among the appointed members.

(C) The Legislative Service Commission shall provide necessary support to the Legislative Audit Commission Study Committee.

(D) The Legislative Audit Commission Study Committee shall publish its findings and recommendations in a report to the Governor, the Speaker and the Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate not later than December 31, 2003. Upon submission of the report, the committee shall cease to exist.

SECTION 172. If the amendments made by this act to division (B)(2)(b) of section 1346.02 of the Revised Code are found unconstitutional or otherwise held invalid by a court of competent jurisdiction, then to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer.

The consequent of the preceding paragraph effectively reinstates division (B)(2)(b) of section 1346.02 of the Revised Code as it existed prior to its amendment by this act.

SECTION 173. The amendment by this act to division (H) of section 718.01 and to section 718.14 of the Revised Code apply to taxable years beginning on or after January 1, 2003.

SECTION 174. (A) Any person required to make accelerated tax payments under section 5739.032, 5739.122, or 5741.121 of the Revised Code that makes full payment of the taxes for the April 2003 reporting period on or before May 23, 2003; makes full payment of the taxes for the May 2003 reporting period on or before June 23, 2003; and makes all three of the required accelerated tax payments for the June 2003 reporting period on or before June 25, 2003, shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for the reporting periods of April 2003 and May 2003.

(B) Notwithstanding division (A) of this section, a person required to make accelerated tax payments under section 5739.032, 5739.122, or 5741.121 of the Revised Code that has not been notified by the Department of Taxation of the requirement to make accelerated payments under one of those sections shall not be subject to the additional charge imposed under division (D)(1) of section 5739.032, division (D)(1) of section 5739.122, or division (D)(1) of section 5741.121 of the Revised Code for any reporting period prior to the receipt of the notice, or until the reporting period of September 2003, whichever is earlier.

SECTION 175. The Director of Administrative Services shall inquire into entering into multistate purchasing contracts in carrying out the Department's duties under Chapter 125. of the Revised Code. Not later than December 31, 2003, the Director shall file a report with the General Assembly detailing the Director's findings. The report shall include recommendations on any legislation necessary to authorize multistate purchasing contracts.

SECTION 176. On July 1, 2003, the Ohio Coal Development Office of the Department of Development is abolished and all of its functions, and assets and liabilities, are transferred to the Ohio Coal Development Office of the Ohio Air Quality Development Authority. The Ohio Coal Development Office of the Ohio Air Quality Development Authority is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio Coal Development Office of the Department of Development.

Any business commenced but not completed by the Ohio Coal

Development Office of the Department of Development or the Director of that office on the effective date of this section shall be completed by the Ohio Coal Development Office of the Ohio Air Quality Development Authority or the Director of that office in the same manner, and with the same effect, as if completed by the Ohio Coal Development Office of the Department of Development or the Director of that office. Any validation, cure, right, privilege, remedy, obligation, or liability is not lost or impaired by reason of the transfer required by this section and shall be administered by the Ohio Coal Development Office of the Ohio Air Quality Development Authority. All of the rules, orders, and determinations of the Ohio Coal Development Office of the Department of Development or of the Director of Development in relation to that office continue in effect as rules, orders, and determinations of the Ohio Coal Development Office of the Ohio Air Quality Development Authority, until modified or rescinded by that office or by the Ohio Air Quality Development Authority in relation to that office. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber rules of the Director of Development in relation to the Ohio Coal Development Office of the Department of Development to reflect their transfer to the Ohio Air Quality Development Authority.

Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all of the employees of the Ohio Coal Development Office of the Department of Development are transferred to the Ohio Coal Development Office of the Ohio Air Quality Development Authority and retain their positions and all the benefits accruing thereto, except that they shall be in the unclassified service and shall serve at the pleasure of the Authority.

Whenever the Ohio Coal Development Office in the Department of Development or the Director of Development in relation to that office is referred to in any law, contract, or other document, the reference shall be deemed to refer to the Ohio Coal Development Office of the Ohio Air Quality Development Authority or the Authority in relation to that office, whichever is appropriate.

Any action or proceeding pending on the effective date of this section is not affected by the transfer and shall be prosecuted or defended in the name of the Ohio Air Quality Development Authority or its Ohio Coal Development Office. In all such actions and proceedings, the Ohio Air Quality Development Authority or its Ohio Coal Development Office upon application to the court shall be substituted as a party.

SECTION 177. Sections 2743.51, 2743.60, 2743.65, and 3701.741 of the Revised Code, as amended by Section 1 of this act, apply to claims filed under section 2743.56 of the Revised Code that are based on criminally injurious conduct occurring on and after July 1, 2003.

SECTION 178. The amendment by this act of section 5747.01 of the Revised Code, by the addition of divisions (A)(20)(d) and (A)(21)(c) to that section, is intended as a clarification of the law as it exists before the effective date of that amendment.

SECTION 179. Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by this act is composed, the codified section of law as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 180. Except as otherwise specifically provided in this act, the repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal by this act of a codified section of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 181. The repeal by this act of sections 122.12, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 173.51, 173.52, 173.53, 173.54, 173.55,

173.56, 173.57, 173.58, 173.59, 1553.01, 1553.02, 1553.03, 1553.04, 1553.05, 1553.06, 1553.07, 1553.08, 1553.09, 1553.10, 1553.99, 3318.35, 3701.142, 3701.144, 4141.044, 5115.011, 5115.012, 5115.06, and 5115.061 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeals go into immediate effect when this act becomes law.

SECTION 182. (A) Sections 117.45, 121.04, 122.658, 124.03, 124.15, 124.152, 124.181, 124.183, 127.16, 131.23, 173.08, 323.01, 329.03, 329.04, 329.051, 340.021, 340.03, 901.21, 901.63, 901.85, 1501.04, 1548.06, 1551.11, 1551.12, 1551.15, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 2101.16, 2151.3529, 2151.3530, 2305.234 (in Section 1), 2329.66, 2715.041, 2715.045, 2716.13, 2743.191, 2743.51, 2743.60, 2743.65, 2921.13, 3111.04, 3119.01, 3123.952, 3311.05, 3311.059, 3313.975, 3313.976, 3313.977, 3313.978, 3313.979, 3313.981, 3314.08, 3314.083, 3316.031, 3316.08, 3317.012, 3317.013, 3317.014, 3317.02, 3317.022, 3317.023, 3317.024, 3317.029, 3317.0217, 3317.03, 3317.032, 3317.05, 3317.064, 3317.07, 3317.10, 3317.16, 3318.37, 3323.16, 3332.04 (in Section 1), 3333.121, 3517.092, 3701.021, 3701.022, 3701.029, 3701.141, 3701.145 (3701.0210), 3701.741, 3702.31, 3702.63, 3702.68, 3702.74, 3705.24, 3709.09, 3711.021, 3721.02, 3733.43, 3733.45, 3734.28, 3734.57, 3745.40, 3748.07, 3748.13, 3769.087, 3773.43, 3781.19, 4104.01, 4104.02, 4104.04, 4104.06, 4104.07, 4104.08, 4104.15, 4104.18, 4104.19, 4104.20, 4105.17, 4112.15, 4117.14, 4123.27, 4141.09, 4301.43, 4501.06, 4505.06, 4519.55, 4723.06, 4723.08, 4723.082, 4723.17, 4729.01, 4729.41, 4731.65, 4731.71, 4736.12, 4747.05, 4747.06, 4747.07, 4747.10, 4771.22, 4903.24, 4905.91, 4919.79, 5101.11, 5101.14, 5101.141, 5101.142, 5101.144, 5101.145, 5101.146, 5101.1410, 5101.16, 5101.18, 5101.181, 5101.20, 5101.21, 5101.211, 5101.212, 5101.23, 5101.36, 5101.58, 5101.59, 5101.75, 5101.80, 5103.155, 5104.04, 5104.30, 5107.02, 5107.30, 5107.40, 5107.60, 5111.0113, 5111.02, 5111.025, 5111.03, 5111.06, 5111.08 (5111.071), new 5111.16, 5111.16 (5111.08), 5111.161, 5111.17, 5111.171, 5111.172, 5111.174, 5111.175, 5111.20, 5111.21, 5111.211, 5111.22, 5111.251, 5111.252 (5123.199), 5111.85, 5111.87, 5111.871, 5111.872, 5111.873, 5111.88, 5111.911, 5111.912, 5111.913, 5112.03, 5112.08, 5112.17, 5115.01, 5115.02 (5115.04), 5115.03, 5115.04 (5115.02), 5115.05, 5115.07 (5115.06), 5115.10, 5115.11, 5115.12, new 5115.13, 5115.13 (5115.07), 5115.14, 5115.15 (5115.23), 5115.20, 5115.22, 5119.61, 5123.01, 5123.19, 5123.196, 5123.198, 5123.1910, 5123.38, 5126.01, 5126.042, 5126.12, 5153.78, 5502.13, 5709.61, 5709.62, 5709.632, 5709.64,

5735.05, 5735.053, 5735.23, 5735.26, 5735.291, 5735.30, and 6109.21 of the Revised Code as amended, enacted, or renumbered by this act, and the items of law of which such sections as amended or enacted by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such sections as amended, enacted, or renumbered by this act, and the items of law of which such sections as amended or enacted by this act are composed, go into immediate effect when this act becomes law.

(B) Sections 3317.11 and 5111.173 of the Revised Code as repealed and reenacted by this act, and the items of law of which it is composed, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as repealed and reenacted by this act goes into immediate effect when this act becomes law.

(C) The amendment of sections 109.32, 2915.01, 2915.02, 2915.08, 2915.081, 2915.082, 2915.09, 2915.091, 2915.092, 2915.093, 2915.095, 2915.10, 2915.101, and 2915.13 of the Revised Code is not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and goes into effect on July 1, 2003.

(D) The amendments of sections 4503.101 and 4503.103 of the Revised Code are not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on June 30, 2003.

SECTION 183. (A) The amendment, enactment, or repeal and reenactment by this act of sections 122.17, 122.171, 307.676, 321.24, 323.13, 715.013, 718.01, 718.02, 718.021, 718.03, 718.05, 718.051, 718.11, 718.121, 718.14, 718.15, 718.151, 2923.35, 2925.44, 2933.43, 3735.66, 3735.67, 3735.671, 4503.06, 5703.56, 5703.57, 5703.80, 5709.20, 5709.201, 5709.21, 5709.211, 5709.212, 5709.22, 5709.23, 5709.24, 5709.25, 5709.26, 5709.27, 5711.02, 5711.13, 5711.22, 5711.27, 5711.33, 5713.07, 5713.08, 5713.081, 5713.082, 5715.27, 5715.39, 5717.011, 5717.03, 5725.19, 5727.111, 5727.30, 5727.84, 5727.85, 5727.86, 5728.04, 5728.06, 5728.99, 5729.08, 5733.04, 5733.05, 5733.051, 5733.056, 5733.057, 5733.0511, 5733.059, 5733.06, 5733.0611, 5733.09, 5733.45, 5733.49, 5733.55, 5733.56, 5733.57, 5733.98, 5735.14, 5735.15, 5735.19, 5735.99, 5739.09, 5743.45 (in Section 1 of this act), 5745.01, 5745.02, 5745.04, 5747.01, 5747.02, 5747.026, 5747.31, 5747.80, and 6111.06 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, enactments, or

repeals and reenactments and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment or enactment by this act of sections 165.09, 902.11, 4981.20, 5703.052, 5739.01, 5739.011, 5739.02, 5739.025, 5739.03, 5739.032, 5739.033 (in Section 1 of this act), 5739.09, 5739.12, 5739.121, 5739.122, 5739.17, 5739.21, 5739.33, 5741.01, 5741.02, 5741.121, and 5741.25 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(C) The amendment by this act of sections 5739.021, 5739.022, 5739.023, and 5739.026 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into effect January 1, 2004.

(D) The amendment by this act of sections 5741.021, 5741.022, and 5741.023 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and, except as provided in this section, go into effect January 1, 2006.

(E) The amendment by this act of section 5739.10 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment, and the items of which it is composed, are not subject to the referendum and, as they pertain to the temporary 6% excise tax levied upon the privilege of engaging in the business of making retail sales, go into effect July 1, 2003, and, as they pertain to the elimination of the exemption for retail sales under 16¢, go into effect January 1, 2006.

(F) The repeal and re-enactment by this act of section 5739.034 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeal and re-enactment, and the items of which they are composed, are not subject to the referendum and go into effect July 1, 2003.

(G) The amendment by this act of section 5735.142 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d the amendment is not subject to the referendum and goes into effect on June 30, 2003.

SECTION 184. The repeal by this act of sections 319.311, 5733.111, 5739.012, 5741.011, and 5747.131 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 185. The repeal by this act of sections 5709.231, 5709.30, 5709.31, 5709.32, 5709.33, 5709.34, 5709.35, 5709.36, 5709.37, 5709.45, 5709.46, 5709.47, 5709.48, 5709.49, 5709.50, 5709.51, 5709.52, 6111.31, 6111.311, 6111.32, 6111.34, 6111.35, 6111.36, 6111.37, 6111.38, and 6111.39 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

SECTION 186. (A) The amendment by this act of sections 4905.79, 4931.45, 4931.47, 4931.48, 5727.32, and 5727.33 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into effect December 31, 2004.

(B) The repeal by this act of sections 5727.39 and 5727.44 of the Revised Code provide for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the repeals, and the items of which they are composed, are not subject to the referendum and go into effect December 31, 2004.

SECTION 187. Section 3301.31 of the Revised Code, as repealed and reenacted by this act, and the items of law of which the section as repealed and reenacted by this act is composed, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as repealed and reenacted is entitled to go into immediate effect when this act becomes law. However, that section as repealed and reenacted by this act, and the items of law of which that section as repealed and reenacted by this act are composed, takes effect July 1, 2004, or the day this act becomes law, whichever is later.

SECTION 188. New section 3301.33 and sections 3301.34, 3301.35, 3301.36, and 3301.38, as enacted by this act, and section 3301.33 (3301.40) of the Revised Code as renumbered by this act, and the items of law of which those sections as enacted or renumbered by this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the sections as enacted or renumbered are entitled to go into immediate effect when this act becomes law. However, those sections as enacted or renumbered by this act, and the items of law of which those sections as enacted or renumbered by this act are composed, take effect July 1, 2004, or the day this act becomes law, whichever is later.

SECTION 189. Sections 3301.37, 3301.52, 3301.53, 3301.54, 3301.55, 3301.57, and 3301.58 of the Revised Code, as amended or enacted by this act, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code the sections as amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, are entitled to go into immediate effect when this act becomes law. However, the sections as amended or enacted by this act, and the items of law of which the sections as amended or enacted by this act are composed, take effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 190. The repeal by this act of section 3301.581 of the Revised Code is not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and goes into effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 191. The version of section 3332.04 of the Revised Code that is scheduled to take effect July 1, 2003, as amended by this act, and the items of law of which that section as amended is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as amended by this act, and the items of law of which that section as amended is composed, go into immediate effect on July 1, 2003.

SECTION 192. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 3745.11 of the Revised Code

are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law.

(B)(1) The amendments by this act of division (P) of section 3745.11 of the Revised Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments, and the items of which they are composed, are not subject to the referendum and go into immediate effect when this act becomes law.

(2) The seventh and last paragraph added to division (S)(1) of section 3745.11 of the Revised Code by this act is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the paragraph takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the paragraph, or against any item of law it contains, the paragraph or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 193. The amendment by this act of the version of section 4511.75 of the Revised Code that is scheduled to take effect January 1, 2004, and the items of law of which that amendment is composed, are not subject to the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and go into effect on July 1, 2004.

SECTION 194. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 4743.05 of the Revised Code are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

(B) The amendment by this act adding a reference to "4771." to section 4743.05 of the Revised Code is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendment goes into immediate effect when this act becomes law.

SECTION 195. (A) The amendments by this act to section 5104.01 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law, except as provided in division (B) of this section.

(B) The amendments by this act to division (T) of section 5104.01 of the Revised Code shall take effect on July 1, 2004.

SECTION 196. Section 5104.02 of the Revised Code, as amended by this act, and the items of law of which the section as amended by this act is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code the section as amended by this act, and the items of law of which the section as amended by this act is composed, are entitled to go into immediate effect when this act becomes law. However, the section as amended by this act, and the items of law of which the section as amended by this act are composed, take effect September 1, 2003, or the day this act becomes law, whichever is later.

SECTION 197. (A) The amendments by this act to section 5104.32 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law, except as provided in division (B) of this section.

(B) The amendments by this act to division (B)(4) of section 5104.32 of the Revised Code shall take effect on September 1, 2003.

SECTION 198. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5111.022 of the Revised Code are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the amendments, and the items of law they contain, go into immediate effect when this act becomes law.

(B) The amendments by this act adding divisions (B)(4), (E), and (F) to section 5111.022 of the Revised Code are subject to the referendum.

Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the amendments take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the amendments, or against any item of law they contain, the amendments or item, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 199. Section 5112.31 of the Revised Code, as amended by this act, and the items of law of which that section as amended is composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, that section as amended by this act, and the items of law of which that section as amended is composed, are entitled to go into immediate effect when this act becomes law. However, that section as amended by this act, and the items of law which that section as amended by this act are composed, take effect on July 1, 2003, or the day this act becomes law, whichever is later.

SECTION 200. Sections 175.21, 175.22, 317.32, 317.36, 319.63, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 5111.021, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 6101.09, and 6115.09 of the Revised Code, as amended and enacted by this act, and the items of law which those sections as amended and enacted are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, section 1d and section 1.471 of the Revised Code, those sections as amended and enacted by this act, and the items of law of which those sections as amended and enacted are composed, are entitled to go into immediate effect when this act becomes law. However, those sections as amended and enacted by this act, and the items of law of which those sections as amended and enacted by this act are composed, take effect on August 1, 2003, or the day this act becomes law, whichever is later.

SECTION 201. * Divisions (A) and (E) of section 9.24 of the Revised Code, as enacted by this act, shall take effect January 1, 2004.

SECTION 202. * Section 102.02 of the Revised Code, as amended by this act, shall take effect January 1, 2004.

SECTION 203. * Section 4759.08 of the Revised Code, as amended by this act, shall take effect July 1, 2004.

SECTION 204. * Sections 5103.031, 5103.033, 5103.034, 5103.036, 5103.037, 5103.038, 5103.0312, 5103.0313, 5103.0314, 5103.0315, 5103.0316, 5153.60, 5153.69, and 5153.72 of the Revised Code, as amended by this act, shall take effect on January 1, 2004.

SECTION 205. * Sections 5103.154 and 5153.163 of the Revised Code as amended by this act take effect July 1, 2004.

SECTION 206. Except as otherwise specifically provided in this act, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law amended or enacted in this act, and the items of law of which the uncodified sections of law amended or enacted in this act are composed, go into immediate effect when this act becomes law.

SECTION 207. Uncodified sections of law amended or enacted in this act, and items of law contained within the uncodified sections of law amended or enacted in this act, that are marked with an asterisk are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the uncodified sections and items of law marked with an asterisk take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

If the amending and existing repeal clauses commanding the amendment of an uncodified section of law are both marked with asterisks, the uncodified section as amended is deemed also to have been marked with an asterisk.

An asterisk marking an uncodified section or item of law has the form *.
This section defines the meaning and form of, but is not itself to be

considered marked with, an asterisk.

SECTION 208. The repeal by this act of the following uncodified sections of law is not subject to the referendum and therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, goes into immediate effect when this act becomes law:

- (A) Section 11 of Am. Sub. S.B. 50 of the 121st General Assembly;
- (B) Section 72 of Am. Sub. H.B. 850 of the 122nd General Assembly;
- (C) Section 129 of Am. Sub. H.B. 283 of the 123rd General Assembly;
- (D) Section 3 of Am. Sub. S.B. 238 of the 123rd General Assembly;
- (E) Section 63.37 of Am. Sub. H.B. 94 of the 124th General Assembly;
- (F) Section 16 of Am. Sub. H.B. 87 of the 125th General Assembly.

SECTION 209. If the amendment or enactment in this act of a codified or uncodified section of law is subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are subject to the referendum, along with the amendment or enactment. If the amendment or enactment by this act of a codified or uncodified section of law is not subject to the referendum, the corresponding indications in the amending, enacting, or existing repeal clauses commanding the amendment or enactment also are not subject to the referendum, the same as the amendment or enactment.

SECTION 210. * The amendment of section 122.25 of the Revised Code by this act is not intended to supersede the earlier repeal, with delayed effective date, of that section.

SECTION 211. * Section 921.151 was amended and renumbered as section 921.22 of the Revised Code by Am. Sub. S.B. 217 of the 124th General Assembly, passed November 21, 2002, and effective July 1, 2004. The amendment of section 921.151 of the Revised Code in Section 1 of this act does not supersede that earlier amendment and renumbering. This act therefore amends both sections to ensure that its amendments continue on and after July 1, 2004.

SECTION 212. The amendment by this act of sections 5112.03 and

5112.08 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

SECTION 213. The amendment by this act of section 5112.99 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of that section.

SECTION 214. * Section 109.572 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 448 and Sub. H.B. 538 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 215. Section 121.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 601 and Am. Sub. H.B. 640 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 216. Section 122.171 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 675 and Am. Sub. S.B. 180 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 217. Section 124.15 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 640 and Sub. S.B. 245 of the 123rd General Assembly. The General Assembly,

applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 218. The version of section 2152.19 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 400 and Am. Sub. H.B. 490 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 219. The version of section 2301.03 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Am. Sub. H.B. 530 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 220. * The version of section 2305.234 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Am. Sub. S.B. 281 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 221. Section 2743.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 115 and

Am. Sub. S.B. 281 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 222. The version of section 2743.191 of the Revised Code that is scheduled to take effect January 1, 2004, is presented in this act as a composite of the section as amended by both Sub. H.B. 427 and Am. Sub. S.B. 123 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 223. Section 2917.41 of the Revised Code is presented in this act as a composite of the section as amended by both Am. H.B. 61 and Am. Sub. S.B. 2 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 224. Section 3309.341 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 535 and Sub. S.B. 270 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 225. Section 3314.03 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 248 and Sub. H.B. 364 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised

Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 226. Section 3317.012 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 94 and Am. Sub. S.B. 1 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 227. Section 3319.07 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 228. Section 3319.36 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 81 and Am. Sub. S.B. 230 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 229. Section 4303.181 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 330 and Sub. H.B. 371 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of

the section in effect prior to the effective date of the section as presented in this act.

SECTION 230. Section 4723.07 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 231. * Section 4973.17 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 232. Section 5111.20 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 403 and Sub. H.B. 448 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 233. Section 5115.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and H.B. 471 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 234. * Section 5709.62 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 235. * Section 5709.63 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Sub. H.B. 27 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 236. Section 5733.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 200 and Am. Sub. S.B. 261 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 237. Section 5735.05 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 612 and Am. Sub. H.B. 640 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 238. Section 5739.01 of the Revised Code was amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that while certain of the amendments of these acts are reconcilable, certain other of the amendments are substantively irreconcilable. Am. Sub. H.B. 524 was passed on March 21, 2002; Am. Sub. S.B. 143 was passed on January 30, 2002; Sub. S.B. 200 was passed on March 13, 2002. Section 5739.01 of the Revised Code is therefore presented in this act as it results from Am. Sub. H.B. 524 and Sub.

S.B. 200 and such of the amendments of Am. Sub. S.B. 143 as are not in conflict with the amendments of Sub. S.B. 200. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 239. Section 5741.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 524, Am. Sub. S.B. 143, and Sub. S.B. 200, all of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 240. Section 5743.45 of the Revised Code is presented Section 1 of in this act as a composite of the section as amended by both Am. Sub. H.B. 566 and Sub. H.B. 670 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 241. Section 5747.01 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 675 and Am.

Sub. S.B. 266 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 242. If any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncoded section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncoded sections contained in this act are composed, and their applications, are independent and severable.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 95

2175

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____